6-11-90
Vol. 55 No. 112

federal register

Monday
June 11, 1990

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

6-11-90
Vol. 55 No. 112
Pages 23539-23698

federal register

Monday
June 11, 1990

Briefings on How To Use the Federal Register
For information on briefings in Minneapolis, MN, Kansas City, MO, and Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 55 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–3328
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–3328
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–3328
Problems with Federal agency subscriptions	523–5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

MINNEAPOLIS, MN

WHEN: June 18, at 1:00 p.m.,
WHERE: Bishop Henry Whipple Federal Building, Room 570, Ft. Snelling, MN.
RESERVATIONS: 1–800–366–2998.

KANSAS CITY, MO

WHEN: June 19, at 9:00 a.m.,
WHERE: Federal Building, 601 East 12th Street, Room 110, Kansas City, MO.
RESERVATIONS: 1–800–735–8004.

WASHINGTON, DC

WHEN: June 28, at 9:00 a.m.,
WHERE: Office of the Federal Register, First Floor Confernce Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

Contents

Federal Register
Vol. 55, No. 112
Monday, June 11, 1990

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
910 23539
Proposed Rules:
1810 23553
1980 23553

14 CFR
382 23539

16 CFR
432 23545

20 CFR
626 23634
636 23634
638 23634
675 23634
676 23634
677 23634
678 23634
679 23634
680 23634
684 23634
685 23634
688 23634
689 23634

21 CFR
452 23634

22 CFR
211 23638

24 CFR
Proposed Rules:
791 23670

27 CFR
19 23634
197 23634
251 23634

32 CFR
Proposed Rules:
199 23554

40 CFR
52 23547
80 23658
261 23634
281 23549
Proposed Rules:
52 23556

47 CFR
Proposed Rules:
22 23562
43 23563
73 23565

50 CFR
33 23549
263 23550
267 23550
Proposed Rules:
264 23565
269 23565

Rules and Regulations

Federal Register
Vol. 55, No. 112
Monday, June 11, 1990

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 721]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 721 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 400,000 cartons during the period from June 10, 1990, through June 16, 1990. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 721 (7 CFR part 910) is effective for the period from June 10, 1990, through June 16, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989-90. The Committee met publicly on June 5, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that demand for large-sized lemons (115's or larger) is good. However, price discounting continues on small-sized lemons.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 910.721 is added to read as follows:

§ 910.721 Lemon Regulation 721.

The quantity of lemons grown in California and Arizona which may be handled during the period from June 10, 1990, through June 16, 1990, is established at 400,000 cartons.

Dated: June 6, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-13442 Filed 6-8-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

[Dockets 46872 and 45657; Amdt. 382-5]

Nondiscrimination on the Basis of Handicap in Air Travel

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Final rule.

SUMMARY: In response to petitions from the Air Transport Association and other airline industry parties, the Department established a new compliance date for portions of its final rule to implement the Air Carrier Access Act (ACAA). This rule responds to the comments by establishing final compliance dates for all provisions of the ACAA regulation.

EFFECTIVE DATE: This rule is effective June 4, 1990.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th St., SW., room 10424, Washington, DC 20590. Telephone 202–366–9306 (voice); 202–755–7687 (TDD). A taped copy of the rule is available upon request.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 1990, the Department published its final rule to implement the Air Carrier Access Act of 1986 (55 FR 8008). The rule, 14 CFR part 382, includes a variety of requirements to ensure nondiscrimination on the basis of handicap in air travel and to ensure that carriers provide adequate accommodations for disabled passengers. All provisions of the rule were originally made effective April 5, 1990.

The Air Transport Association (ATA), a trade association of major air carriers, filed a petition March 21, 1990, requesting that the Department set a compliance date of October 5, 1990, for part 382 (i.e., 180 days after the effective date of the rule). ATA argued that the necessity of training its employees to comply with the rule, plus the need to establish administrative systems and obtain needed supplies and equipment, made it impracticable for carriers to comply with the rule on its effective date.

An organization of smaller air carriers, the National Air Carrier Association, filed a brief petition supporting the ATA petition. The Regional Airline Association (RAA), a trade association of commuter air carriers, and Skywest Airlines filed comments supporting the ATA petition. Southwest Airlines filed a petition asking for an October 5, 1990, compliance date for the provision requiring carriage of wheelchair batteries requiring hazardous materials packaging. The Paralyzed Veterans of America (PVA), on behalf of itself and four other disability groups, filed comments opposing the ATA petition.

On April 3, 1990, the Department published its response to the petition (55 FR 12336). The Department considered the ACAA regulation (14 CFR part 382) section by secton, and determined that certain listed provisions might require some additional time for compliance beyond April 5. The Department established a June 4 compliance date for these provisions and asked for public comment on whether further extension of the compliance date for these provisions was warranted. The original April 5 compliance date was retained for the rest of provisions in part 382.

Notwithstanding this partial grant of its petition, ATA filed suit in the U.S. Court of Appeals for the District of Columbia on April 4, asking for an emergency stay of the effective date of the rule until October 5. The court denied ATA's motion. Subsequently, ATA offered the same motion in the U.S. Court of Appeals for the 10th Circuit, where ATA's action had been consolidated with a suit brought by PVA and other disability groups. The 10th Circuit Court also denied ATA's motion.

The Department received four comments on the April 3 rule, from the ATA, PVA (on behalf of itself and several other disability groups), Southwest Airlines, and American Airlines/AMR Eagle. In general, the ATA comment renewed that organization's request to postpone compliance with the entire regulation until October 5. It also asked the Department to postpone compliance with specific sections. PVA recommended that no further postponements be granted with respect to any part of the regulation. Southwest and American focused on regulatory sections of particular concern to them, asking that compliance with these sections be postponed to October 5 or (in the case of American's comment) September 5.

Postponement of Compliance Date for All of Part 382

The Department will not, as requested by ATA, extend the compliance date for the entire regulation to October 5. The issue of postponement of compliance with the entire regulation was decided in the April 3 rule. The present rulemaking action is more narrowly focused. As the "Summary" section of the April 3 rule indicated, the rule established a new compliance date "for portions of the final rule to implement the * * * ACAA." The request for comment concerned only "whether these compliance dates (i.e., for the sections which the April 3 notice extended to June 4) should be further extended to October 5 * * *."

Substantively, the Department earlier considered and rejected this ATA request (55 FR 12337). ATA's comment simply raises again the arguments it made in its original petition, which the Department and two Federal courts found unpersuasive. ATA included with its comments several affidavits from airline officials containing assertions that the carriers could not comply with part 382 by April 5, and that it would take them until October 5 or longer to comply with various regulatory requirements. The Department notes that it is now nearly two months beyond April 5 and that ATA has not presented any evidence that the problems that ATA and carrier officials predicted from allowing provisions of the regulation to go into effect on April 5 have actually occurred.

ATA criticizes what it characterizes as the "piecemeal" approach of the April 3 rule. This appears to mean that, in ATA's view, it is a mistake to require compliance with some provisions of the rule while allowing deferral of compliance with other provisions. Individual sections of the rule connect and interrelate as part of a single, complex, whole, ATA says. If the implication ATA would make from this statement is that carriers should be free from any obligation under the rule until all portions of the regulation are fully implemented, the Department must disagree. It would make no sense to argue, for example, that a carrier should be free from prohibitions against unjustified requirements for an attendant or denials of transportation because it was not yet ready to carry hazardous materials packages for batteries. Quite simply, taking action to accommodate the legitimate needs of carriers for additional time with respect to some provisions of the rule is an inadequate rationale for denying to passengers the protections of other parts of the rule for a period of four months.

The Department fully supports the training requirements of § 382.61 and believes that fully training all personnel involved is very important to the efficient and smooth implementation of the rule over the long term. We believe equally that it is erroneous to assume that compliance with regulatory provisions prohibiting discrimination is impossible in the period during which training is taking place. Carriers could and should have been working from March 6 until today to comply as quickly as possible with the regulation and to inform their employees of their responsibilities, even in advance of formal training. The Department understands that at least some carriers have done so.

As pointed out in the preamble to the April 3 rule, the Department is aware that, during the period before the completion of employee training, carriers, even though operating in good faith under the rule, may make mistakes in the application of the provisions with which compliance is going forward. In considering any complaints brought to our attention for possible enforcement action in the period before training is complete, the Department intends to take into consideration such factors as the good faith shown by the carrier in its dealings with the passenger (including efforts by the carrier to rectify problems that may occur); the efforts being made by the carrier with respect to training, updating procedures, acquiring equipment, etc.; and the degree to which the particular carrier personnel involved had been trained. It is the Department's intention to use the enforcement process during this period as a means of assisting carriers to comply, rather than in a punitive way. This does not mean that the Department will tolerate intentional, egregious, or bad faith violations of passengers' rights under the rule, however.

Section-by-Section Analysis

This portion of the preamble discusses the comments on each of the provisions in the ACAA final rule for which a June 4 compliance date was established. Under each section heading, the Department discusses its rationale for extending or not extending further the June 4 compliance date.

Section 382.7(b)—Nondiscrimination

This paragraph extends coverage of the regulation to indirect air carriers. ATA favored generally postponing compliance for all of § 382.7 but did not address the question of indirect air carriers. No indirect air carriers commented. PVA saw no reason for further postponement. In the absence of comment demonstrating the need for additional time for indirect air carriers to comply, the June 4 compliance date will remain in effect for this provision.

Section 382.9—Assurances from Contractors

ATA commented that, as stated on several of the carrier affidavits attached to its comment, carriers would need several months to complete negotiations and paperwork pertaining to these assurances. American added that some of its contractors have asked for additional time to consider compliance with this provision and the rule in general, and said that it had no control over the speed of the contractors' agreement to include the assurances. PVA said that three months is more than enough time for carriers to complete what PVA regards, in effect, as a ministerial task.

Part 382 imposes obligations on air carriers. A carrier's responsibility for making sure these obligations are met is the same regardless of whether the carrier's own work force or a contractor performs a certain task. The presence or absence of contractor assurances does not affect the substantive obligations of carriers or their responsibility of meeting these obligations. The Department believes that assurances are in all parties' interest: in passengers' interest, since they will make compliance more likely; in contractors' interest, since they will aid contractors' understanding of what they should do; and in carriers' interest, since they will provide a contractual means for helping carriers deal with what otherwise might be incorrect actions by contractors. Nevertheless, the Department also recognizes that language will have to be inserted in a substantial number of contracts, and that these paperwork changes, while perhaps difficult, may take some time.

Consequently, the Department will extend to August 5 the compliance date for this provision. This extension means that carriers—who should already have begun the process of modifying contracts for this purpose—have until that date to complete the process. The date chosen is intended to give carriers additional time to complete the administrative tasks involved and also to emphasize that the tasks must be completed expeditiously.

As part of the carriers' good faith efforts to comply with the rule, the Department expects carriers to have contacted all concerned contractors in the interim concerning actions needed for compliance with the rule. The Department emphasizes that carriers' obligations for compliance with the rule, including provisions which contractors must carry out, is not suspended in this period. That is, the carrier is responsible for any violation of the rule that takes place between now and August 5 because a contractor has erred, whether or not an assurance has been incorporated in the contract at the time of the violation.

Section 382.21(c)—Refurbishment of aircraft

ATA commented that in addition to the availability of parts, it was concerned about inventory control and parts management problems that might be created by a requirement to refurbish aircraft before October 5, particularly where (presumably inaccessible) parts had already been ordered or obtained. ATA expressed general support for language similar to that concerning bus lifts in the Americans with Disabilities Act (ADA) bill currently pending in Congress, which allows transit authorities to waive the requirement to acquire lift-equipped buses in some circumstances if they can demonstrate that equipment is unavailable. American supplied proposed language for such a provision.

PVA expressed concern that the requested delay in the compliance date for this provision would allow carriers to refurbish substantial numbers of aircraft during the next four months with inaccessible parts, which could remain in service for 10 years or more before accessibility improvements were made. Since some refurbishments are optional (i.e., not required for safety purposes), PVA asserted that carriers could tolerate some degree of delay in acquiring parts. Besides, PVA contended that ATA had not demonstrated any specific shortages of or delays in acquiring needed parts (beyond unsupported estimates in affidavits from carriers). PVA opposed an ADA-type "good faith" exception, since carriers can continue full operations while they acquire accessible equipment.

Requiring carriers to make accessible refurbishments does, of course, require a change in their behavior. If, as they should have been doing, carriers began ordering only accessible replacement items on March 6 and began planning to change refurbishments already scheduled to incorporate accessibility features at that same time, the delays or disruptions involved need not be serious.

If ATA's request for a delay in the compliance date were granted, any aircraft refurbished on or after October 5 would have to have the required accessibility features. Compared to this scenario, the worst outcome for a carrier under a June 4 compliance date is a delay of four months. Even assuming such a delay, PVA's point is persuasive. It is less undesirable, for example, for an airline to wait an additional four months to put new seats in an aircraft than for disabled passengers to wait seven years to have seats with movable armrests in the aircraft. In addition, ATA did not make a case that any inventory or parts management disruptions would be insuperable.

Consequently, the June 4 compliance date will remain in effect for this provision. Given the limited amount of time between now and October 5, the Department does not believe an ADA-

type good faith efforts provision is necessary.

Section 382.23(e)—Airport Contracts or Leases

This provision requires carriers to work with airport operators so that contracts or leases for the use of airport facilities reflect the appropriate division of labor concerning accessibility requirements. ATA said that while this task is not difficult, the necessity of negotiating with large numbers of airports will take time. Some parties may be concerned, for example, about liability implications of the allocation of responsibility. PVA saw no reason for further delay.

The Department will take the same approach here as in the case of contractor assurances, allowing until August 5 for the completion of the process. The reasons are essentially the same: paperwork of this sort can take time, and the substantive requirements of the section are not dependent upon the timing of the paperwork. Carriers are responsible for complying with the requirements of this section with or without an agreement having been incorporated in their contracts or leases with the airport. Clearly, it is in the interest of both carriers and airport operators to finalize such an agreement as soon as possible.

Section 382.31(e)—Written Explanations for Refusals of Transportation

This provision requires carriers to provide a written explanation, within 10 days, of the reason for a refusal of service based on handicap. ATA said that personnel would need to be trained in order to carry out this process correctly. ATA also said that there was no basis for assuming that there would be discrimination if this requirement were delayed further. American added that until Complaints Resolution Officials (CROs) were trained and in place, this requirement could not be carried out properly. PVA said that 90 days were enough time to gear up to comply with this requirement. In any case, PVA argued, many carriers already have mechanisms (e.g., consumer affairs offices, incident report systems) that can easily be adapted to provide written explanations of denials of service.

A written explanation is a key part of the general prohibition of refusals of service. The requirement to write down a reason for an action is an important safeguard against arbitrary action. An elaborate administrative system does not seem necessary to carry out this requirement. If carrier personnel keep someone off a flight because of handicap, some carrier employee—whether the operating employee who made the decision, a consumer affairs employee, or a line official—simply has to write a letter saying why. It is difficult to conceive why a carrier could not devise a means of producing such letters in 90 days. It is not mandatory that a CRO write the letter in question (though the CRO may do so). For these reasons, the June 4 compliance date will continue to apply to this provision.

Section 382.33(f)—Administrative provisions concerning advance notice

Paragraph (d) requires that carriers' information and administrative systems ensure that information on advance notice is provided to the right people in the carrier's organization. It is a means to the end set forth in paragraph (e), that services for which passengers provide advance notice actually are rendered. Paragraph (f) tells a carrier to help out another carrier in providing the service, where the passenger who provided the advance notice to the first carrier is forced to switch to the second.

ATA says that these provisions require more time and training to accomplish. PVA points out that carriers already have systems for passing along information on advance notice (e.g., concerning special meals) and that carriers have had plenty of time to make arrangements within their own organizations and with other carriers.

The Department will establish an August 5 compliance date for paragraph (d). This is an administrative requirement that may take time but which does not free carriers from the obligation to actually ensure that services for which advance notice is given are actually provided (paragraph (e)). Because informal arrangements among carriers at a station to help each other with accomodations for disabled passengers should not be difficult to accomplish if managements are willing, the June 4 effective date will remain for paragraph (f).

PVA also notes its general opposition to advance notice requirements, saying that they are contrary to the ACAA since they are non-safety based restrictions on handicapped passengers. The Department disagrees with this point. The rule requires certain accommodations to be provided to disabled passengers. Some of these accommodations need lead time to accomplish (e.g., extra personnel at a small commuter airline station to prepare and load an electric wheelchair into the cargo bay of a small aircraft). Advance notice simply gives the carriers needed time to prepare to provide accommodations. Without such time, it is doubtful, as a practical matter, that the accommodations could be provided.

Section 382.35(b)(2), (b)(3), (d), (e)—Attendants

Paragraphs (b)(2) and (b)(3) concern persons with mental disabilities and mobility impairments and the situations under which attendants may be required for them. ATA and American said substantial training is needed to implement these provisions and more time should be allowed (indeed, ATA favored postponing all of § 382.35 until October 5). PVA, while opposing the attendant provision in general, finds no reasons for additional delays.

These provisions of the attendants section, in the Department's view, call for substantial exercise of judgment on the part of operating personnel according to standards which may, as yet, be unfamiliar to them. In this respect, they are unlike the exercise of discretion to exclude persons from aircraft on safety grounds under section 1111 of the Federal Aviation Act or to determine whether an attendant is needed for a deaf/blind person, both of which are based on standards that have been in existence for some years. For this reason, there is a clearer need for detailed training concerning these provisions than most others in the regulation. The Department will establish an October 5 compliance date for these two paragraphs, subject to the conditions explained in the preamble to the April 3 rule (see 55 FR 12339, first two full paragraphs).

Paragraphs (d) and (e) are adminstrative provisions concerning situations where an attendant requirement on a full flight results in a disabled person being unable to make the flight. ATA and PVA made the same arguments here as they did with respect to the other provisions of the section. These provisions are not difficult to implement, and the Department has not received any information indicating why further delay is essential. Therefore, the June 4 compliance date will continue to apply.

Section 382.37 (b), (c)—Alternate seating provisions

These provisions require that, when a passenger or a service animal cannot be accommodated at a particular seat location for certain reasons, the carrier must attempt to relocate them elsewhere before denying transportation. PVA urged not further delaying these provisions; ATA did not specifically comment on them. Since there is not sufficient justification for further delay, the Department will continue to apply

the June 4 compliance date to these provisions.

ATA did ask that the entire section on seat assignments be postponed until October 5, consistent with the FAA's compliance date on its exit row rule. This argument misunderstands the relationship between the two rules. Compliance with the FAA rule is not necessary to compliance with § 382.37, which simply prohibits discrimination in seat assignments. The FAA rule endorses carriers' use of their own exit row procedures pending full compliance with the FAA rule. Consequently, carriers are not compelled to take any unsafe actions with regard to exist row seating pending full compliance with the FAA rule. In addition, of course, § 382.37 also calls on carriers to avoid seating discrimination in ways that have nothing to do with exit rows (e.g., to avoid requiring persons with service animals to sit in bulkhead seats).

Section 382.39 (a), (a)(1), (a)(2), (a)(3), (b)(3), (b)(4)—Provision of services and equipment

These provisions concern various aspects of boarding assistance and assistance to passengers on the aircraft. PVA argued the necessity of the various provisions and said that many carriers offer assistance of this kind already. Carriers have had sufficient time to prepare to comply, PVA added. ATA said that providing services to meet a requirement is different from providing the same services voluntarily, and that the shift to a mandatory regime requires careful explanation to personnel, for which an additional delay should be granted. AMR Eagle suggested that all boarding assistance requirements be postponed until other rulemakings (e.g., the supplemental and advance notice of proposed rulemaking published March 6) were finalized. Otherwise, AMR Eagle suggested, it might encounter undue burdens or situations in which compliance was impossible.

The reason why providing an existing service becomes substantially different the day a regulation requiring the service goes into effect is not readily apparent, and ATA did not explain what the difference was. In fact, carriers have a great deal of experience in providing boarding assistance and related services, and carriers should be able to use that experience as the basis for compliance with the requirements of this section.

AMR Eagle's concern about the boarding assistance requirements seems based on a misunderstanding of how those requirements apply to small aircraft. For example, the exception to the boarding assistance requirement for aircraft with less than 30 seats is directly intended to avoid a requirement for hand-carrying where other boarding devices do not now exist (the development of such devices is involved with the other rulemakings AMR Eagle cites). The on-board chair requirement does not apply to smaller aircraft. The Department would apply a rule of reasonableness in considering situations in which boarding assistance could not extend beyond seats near the entrance of a small aircraft when boarding chairs could not navigate the aisle.

The June 4 compliance date will continue to apply to the provisions in this section.

Section 382.41 (d), (e)(2), (f), (g), (g)(2), (g)(3), (g)(5)—Stowage of personal equipment

These provisions concern stowage of wheelchairs and other mobility aids in aircraft cabins and cargo compartments. ATA commented generally that these provisions require training of personnel as to the details of implementation and so should be postponed until October 5. PVA argued that the provisions simply require utilization of existing facilities and manageable changes in policy. No retrofitting was necessary, in PVA's view. PVA also said it had contacted a major manufacturer of battery boxes, which had asserted it could meet the demand for boxes on a timely basis. AMR Eagle said it did have boxes, but still was seeking gloves and battery lifts it needed.

There was specific comment about the provisions of paragraph (g), as they pertain to carriers who had not previously carried any hazardous materials. Southwest said it had begun to do the work necessary for compliance, but still had to complete and get FAA approval for its hazardous materials training program. In addition, Southwest said it had to modify the cargo bays in at least 46 of its aircraft for carrying electric wheelchairs. The "pacing item" for the timing of these modifications, Southwest said, was the cargo bay restraint system, in particular anchoring facilities for tie-downs. This modification was also subject to FAA approval. Though Southwest hoped to have the work completed earlier, it asked for an October 5 compliance date to be on the safe side. AMR Eagle also noted that it has not carried hazardous materials previously and needed to devise a special training program for this purpose.

With respect to carriers who have not previously carried hazardous materials, the Department believes Southwest has made a reasonable case that further time is needed before such carriers are required to transport hazardous materials batteries. Therefore, the Department will establish an October 5 compliance date for such carriers (not all carriers) for paragraph (g), with respect to carriage of hazardous materials batteries (not with respect to batteries not requiring hazardous materials packaging). For other carriers, and with respect to other provisions of this section, the Department believes that a case for further delay has not been made, and the June 4 compliance date will continue to apply.

Section 382.45 (a), (c)—Passenger information

These provisions deal with information being provided to passengers on accessibility features of aircraft and information provided to passengers with vision or hearing impairments. With respect to paragraph (a), which concerns information on accessibility features, ATA says that it needs more time to program computer reservation systems (CRS) with the appropriate information and to train agents to respond appropriately to inquiries. Paragraph (c) involves new requirements for which training is also necessary, in ATA's view. PVA says that ATA has not demonstrated with any evidence that the information cannot be made available by June 4, and that no delay is needed to give passengers information they ask personnel about in terminals or in aircraft.

Intuitively, any change to a large computer system takes longer than it ought to, and the Department could understand that incorporating accessibility information on a CRS may take more time. However, the requirement of the rule is for the provision of information, not for the revision of CRS software, and interim means to provide this information should be available to the carrier (i.e., a resource phone number to which an agent could refer an inquiry). Consequently, the Department does not believe that a further delay is essential with respect to paragraph (a). With respect to paragraph (c), since carriers have the option of simply having an employee personally provide requested information to a passenger (if more complicated systems have not been installed), there seems no reason for further postponement. The June 4 compliance date will apply to these provisions.

Section 382.47(a)—Requirements for TDDs

This provision requires carriers to make telecommunications device for the deaf (TDD) service available for information and reservation purposes whenever phone service for these purposes is available to the general public. ATA says that several carriers will not have TDD service matching their phone service for some time, and it could take an additional 90 days. PVA says that TDDs are off-the-shelf items that should be no problem to obtain or operate.

As we understand ATA's comment, the problem its carriers cite is not the unavailability of TDD equipment (PVA is clearly correct on this point). Rather, it is that in terms of internal administration, it is difficult to make sure that there is TDD coverage for the same hours that there is phone coverage. That said, it is not at all clear why this need be the case. TDDs are very easy to use. A reservation agent who can deal with the carrier's CRS terminal can learn to use a TDD in minutes. If a carrier purchases a TDD and sets it up in close proximity to a work station which is staffed by reservation agents, it is difficult to see how the carrier could avoid providing the same service it provides to the general public. Certainly there was no explanation from ATA why this could not easily be done. This provision will go into effect June 4.

Section 382.49 (b), (c)—Security screening of passengers

These provisions concern private screenings of disabled passengers, which carriers are obligated to provide if the passengers ask for them. ATA said that some additional time was needed because carriers needed to work with security screening contractors to ensure compliance. PVA said that 90 days was sufficient for a relatively simple task like ensuring that contractors provide private screenings when asked. The Department has not been presented with any information why it should be impossible to conduct private screenings on request without further delay, and the June 4 compliance date will apply to this section.

Sections 382.51, 382.53(c)—Communicable diseases

Section 382.51 concerns conditions under which carriers may take action with respect to a passenger on the basis of a communicable disease. (Section 382.53(c) is a cross-reference to the § 382.51 in the medical certificates section of the rule.) Carriers may take such action only with respect to a person who has been determined by appropriate U.S. public health authorities to have a disease which can be transmitted to others in the normal course of flight.

ATA asked for further postponement because carriers have been unable to learn from U.S. public health authorities which diseases would qualify. The requirement also changes past practice significantly, ATA said. PVA said three months should have been enough for this purpose.

The Department notes that this section does not require carriers to take action with respect to any passenger on the ground of having a communicable disease. Nevertheless, the Department is aware that it has been difficult to obtain information from public health organizations on this subject, and believes that some additional time may be warranted. Consequently, these provisions will have an effective date of August 5. As noted in the preamble to the April 3 rule, the Department would, in the interim, regard it as a violation of the general nondiscrimination or other provisions of the rule if action were taken against a passenger on the basis of a disease which public health authorities have clearly stated not to be transmissible by casual contact (e.g., HIV infection).

Section 382.65 (a), (b)(2)—Compliance procedures (CROs)

These provisions concern the complaints resolution official (CRO) function. ATA contends that CROs cannot be in place by June 4, since a large number need to be trained (e.g., American/AMR Eagle intend to train 1900 employees as CROs) and the training needs to be more detailed than for other employees. PVA said that since CROs were key personnel for compliance, it was essential for carriers to have CROs in place to avoid substantive noncompliance with the rule.

The Department sees no reason why an airline which started to designate and train CROs on March 6, or even April 5, could not have a reasonable number of CROs trained by June 4. For example, there was a training session in May for a substantial number of CROs sponsored by the Regional Airline Association (RAA), in which DOT staff participated. It should also be pointed out that basic compliance with this provision of the rule for a carrier can be achieved before all potential CROs are trained. While American and AMR Eagle may eventually train 1900 employees, it is likely that, between CROs at major stations and others available by telephone link, the carriers could have a CRO system operating in the short term with fewer than this number of employees trained. In addition, the Department agrees with PVA that CROs are key personnel for ensuring compliance with the rule. For these reasons, the June 4 compliance date will continue to apply to these provisions.

Regulatory Process Matters

This is not a major rule under Executive Order 12291 or a significant rule under the Department's Regulatory Policies and Procedures. This rule imposes no costs, has no Federalism implications, and does not have a significant economic impact on a substantial number of small entities. Therefore, neither a regulatory evaluation, Federalism assessment, nor regulatory flexibility analysis is warranted.

This rule relieves certain restrictions (i.e., that carriers begin compliance with all provisions of part 382 on April 5 or June 4), in response to comments from affected parties. In addition, compliance with the designated provisions of part 382 could be difficult to achieve on June 4, and it would be impracticable to insist to the contrary. Because the June effective date of part 382 has arrived, quick action is necessary. Public comment has been obtained on the changes in compliance dates called for by this notice. For these reasons, the Department finds good cause to make the rule effective less than 30 days after publication and determines additional opportunities for public comment is impracticable and contrary to the public interest.

List of Subjects in 14 CFR Part 382

Aviation, Handicapped.

Issued this 4th Day of June 1990, at Washington, DC.

Samuel K. Skinner,

Secretary of Transportation.

For the reasons set forth in the preamble, 14 CFR part 382 is amended as follows:

PART 382—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN AIR TRAVEL

1. The authority citation continues to read as follows:

Authority: Secs. 404(a), 404(c), and 411 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1374(a), 1374(c), and 1381).

2. Section 382.3 thereof is amended by revising paragraph (e) and adding new paragraphs (f) and (g) to read as follows:

§ 382.3 Applicability.

* * * * *

(e) The compliance date for the following provisions of this part is June 4, 1990:

§ 382.7 (b)
§ 382.21(c)
§ 382.31(e)
§ 382.33(f)
§ 382.35 (d), (e)
§ 382.37 (b), (c)
§ 382.39 (a) (second sentence of introductory language); (a)(1) and (a)(2), with respect to acquisition of equipment; (a)(3); (b)(3); (b)(4)
§ 382.41 (d), (e)(2), (f)
§ 382.45 (a), (c)
§ 382.47(a)
§ 382.49 (b), (c)
§ 382.65 (a), (b)(2).

(f) The compliance date for the following provisions of this part is August 5, 1990:

§ 382.9
§ 382.23(e)
§ 382.33(d)
§ 382.51
§ 382.53(c).

(g) The compliance date for the following provisions for this part is October 5, 1990:

§ 382.35 (b)(2), (b)(3)
§ 382.41(g), with respect to the acceptance and stowage of batteries requiring hazardous materials packaging, for carriers which, as of March 6, 1990, had a policy of carrying no hazardous materials.

[FR Doc. 90–13372 Filed 6–8–90; 8:45 am]
BILLING CODE 4910–62–M

FEDERAL TRADE COMMISSION

16 CFR Part 432

Trade Regulation Rule: Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products

AGENCY: Federal Trade Commission.

ACTION: Announcement of results of review under the Regulatory Flexibility Act.

SUMMARY: Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and a published Plan for Periodic Review of Commission Rules (46 FR 35118 (1981)), the Federal Trade Commission has conducted a review of the Trade Regulation Rule relating to power output claims for amplifiers utilized in home entertainment products (hereafter referred to as the Amplifier Rule or the Rule). The Commission concludes that based on this review there is no reason to believe that the Rule has had a significant impact on a substantial number of small entities and that there is a continued need for the Rule.

FOR FURTHER INFORMATION CONTACT: Robert Eliot Easton, Sr., Esq., Special Assistant—Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326–3029.

The Amplifier Rule

The Amplifier Rule makes it an unfair method of competition and an unfair or deceptive act or practice for manufacturers and sellers of sound power amplification equipment for home entertainment purposes, such as radios, record and tape players, audio amplifiers, etc., to fail to make certain performance information disclosures when companies make direct or indirect representations of power output, power band, frequency or distortion characteristics.[1]

These disclosures must be made clearly, conspicuously and more prominently than any other representation or disclosures. The Rule also sets out standard test conditions for performing the tests necessary to make the required performance disclosures. Further, the Rule prohibits representatives of performance characteristics if they are not obtainable when the equipment is operated by the consumer in the usual and ordinary manner without the use of extraneous aids, such as cooling fans.

The Rule was promulgated May 3, 1974, (39 FR 15387 (1974)), to assist consumers in purchasing power amplification equipment by standardizing the quantification and presentation of the various performance characteristics of the equipment. Prior to the Rule, sellers were making power, distortion and other performance claims based on many different technical test procedures. Some sellers used no recognized test procedures. The Rule establishes uniform test standards and disclosures so that performance claims permit more meaningful comparisons of performance attributes.

The Regulatory Flexibility Act Review Requirements

The Regulatory Flexibility Act (5 U.S.C. 601, et seq.) mandates that federal agencies review rules that they have issued to determine if those rules have "a significant economic impact upon a substantial number of small entities." As part of this review, the agency must publish in the Federal Register a brief description of the rule to be reviewed, the legal basis of the rule, and an invitation for public comment on the rule (5 U.S.C. 601(c)). The Act specifies five factors (5 U.S.C. 601(b)) that should be considered by the agency during the review:

(1) The continued need for the rule;

(2) The nature of complaints or comments received from the public concerning the rule;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

The purpose of the review is to determine whether the rule should be continued without change, or should be amended or rescinded to minimize any significant economic impact of the rule upon a substantial number of small entities.

To assist it in its deliberations, the Commission posed the following questions for public comment. The FTC requested that any factual data (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with the comments.

(1) Has the Rule had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for the Rule?

(3)(a) What burdens, if any, does compliance with the Rule place on small entities?

(b) To what extent are these burdens ones that small entities would also experience under standard and prudent business practice?

(4) What changes, if any, could be made to the Rule to minimize the economic impact on small entities?

(5) To what extent does the Rule overlap, duplicate or conflict with other Federal and with state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the markets affected by the Rule since 1974 and, if so, what effect do these changes have on the Rule or those covered by it? 54 FR 43435, October 25, 1989.

[1] The required disclosures relate to: minimum sine wave continuous average power output; load impedance in Ohms; rated power band or frequency response; and rated percentage of maximum total harmonic distortion.

Analysis of the Comments

The Commission received three relatively brief comments in response to the Federal Register Notices. One was from the Consumer Electronics Group of the Electronic Industries Association, (hereafter referred to as EIA) a national trade association of over 90 manufacturers of consumer electronics products including home audio entertainment products. The second comment was from Thomson Consumer Electronics, Inc., (hereafter referred to as Thomson) the successor company to the General Electric and RCA consumer electronics business. The third comment was from an individual, Mr. Kimberly John Crumb of Minneapolis, Minnesota. The comments are part of the public record in this proceeding and available to the public.

The comments are uniform in stating that the Amplifier Rule should be kept because it serves the public interest. Further EIA and Thomson state that the Rule does not adversely affect small entities but to the contrary benefits them by establishing a "level playing field" upon which the small entities can compete with larger firms.

None of the three comments addressed all of the questions asked (see page 3 and 4 above) but are very instructive nonetheless. The comments are discussed in relationship to the questions posed.

1. Has the Rule had a significant economic impact on small entities?

Two comments (EIA and Thomson) addressed this issue. Both said that the Rule had little economic impact on small business and that whatever impact the Rule had was beneficial to the small entities.

The EIA comment stated:

> EIA does not believe that there has been any significant negative economic impact or burden on small entities as a result of having to comply with the Rule. As with the implementation of any new rule or regulation, there are new procedures to follow and steps to take in order to comply, however, the positive effects of the Rule create a level playing field for all manufacturers and sellers of sound power amplification equipment. The standardization of the quantification and presentation of various performance characteristics have allowed small manufacturers to compete on the same level as larger manufacturers.
>
> The methods used for testing and measuring conformance with the current rule are neither complex nor expensive. Virtually every manufacturer of audio amplifiers uses the test equipment required for such verification in the normal course of manufacturing and testing products on the production line.

And Thomson wrote:

> Thomson does not believe that the Rule has had any significant negative impact upon small entities. No manufacturer, distributor or retailer is compelled by the Rule to advertise output characteristics or to perform tests of power output, total harmonic distortion or other performance characteristics. Instead, the Rule only standardizes the manner in which any such claims are to be substantiated and presented. The test procedures to be followed in documenting the performance attributes are not expensive nor technically obscure. A small entity which decides to advertise the power output of its equipment is not, therefore, significantly handicapped or burdened by the test procedures or disclosures mandated by the Rule.
>
> Instead, by providing a consumer-accepted, easily-accessible standard for all entities to utilize, the Commission has enabled small entities to compete on a more equal footing with larger firms in the area of power output claims. In fact, a significant number of manufacturers of audio equipment are small entities and the number of small companies manufacturing and selling high quality, high performance audio components has flourished [sic] over the last fifteen years.

The arguments made in the comments seem well taken. The testing equipment needed to verify power claims is not overly expensive or complex and would be used by companies even if the Rule did not exist. The Rule's standards establish objective criteria for claims by all manufacturers, both large and small. This allows small companies to compete more efficiently.

Further, if the Rule did have significant adverse economic effect on small entities, staff would expect at least one comment to that effect by a small amplifier manufacturer. We received none.

2. Is there a continued need for the Rule?

Each of the three comments addressed this issue and stated that the Rule is still needed. The commenters assert that the Rule brought order to a confused market and that weakening or repealing the Rule would result in a return to deceptive tactics.

The EIA comment stated:

> It is EIA's conclusion that the Rule is necessary, effective and should undoubtedly be continued. * * *

The Rule was promulgated May 3, 1974 in order to assist consumers in purchasing power amplification equipment and to alleviate consumer confusion over product advertising claiming varied levels of performance. The Rule also established uniform test procedures in order to permit more meaningful comparisons of performance attributes. As a result, consumers have the ability to make informed choices and manufacturers and retailers can compete on a level playing field.

Thomson Electronics states:

> Thomson believes that this need still exists and encourages the Commission to retain the Rule in place. The Rule has serviced consumers well by providing the only "yardstick" by which to measure and compare manufacturers' power output, distortion and performance claims for home entertainment amplification equipment.
>
> * * * * *

If the Rule were rescinded, Thomson believes the current level of consumer trust and reliance could, and likely would, be abused by advertisements which mimic but fail to comply with the Rule's requirements. Advertising claims could become meaningless and could lead to marketplace confusion. Consumer confidence would be lost.

The individual commenter wrote:

> I am strongly opposed to any weakening/or elimination of this regulation.
>
> * * * * *
>
> Elimination of this regulation will cause a free-for-all * * * those with the largest misrepresentation will win.

The comments argue forcefully for keeping the Rule in effect.

3. What compliance burdens does the Rule place on small businesses and are these burdens part of prudent business practices anyway?

The comments of EIA and Thomson on this issue are presented and discussed above in connection with question 1. The burdens, e.g., test equipment, etc. do not appear significant and would be present even absent the Rule as part of prudent business practices.

4. What changes could be made to the Rule to minimize the economic impact on small entities?

The comments do not address this issue. However, the comments do stress that the Rule has virtually no economic impact on small entities.

5. Does the Rule overlap, duplicate or conflict with other laws?

The comments do not address this issue. However, the Commission is unaware of any federal, state or local laws addressing the specific areas covered by the Rule.

6. Have there been changes in technology and economic conditions since 1974 that affect the Rule or those covered by it?

The comments do not address this issue. While there have been changes in home stereo technology in the sixteen years since the Rule was promulgated, the changes are not of the type which are affected by the Rule. Further, there have been major changes in the market for automobile stereo and audio equipment, but this market is not covered by the Rule.

Extension of the Rule to Car Audio

Even though the **Federal Register** Notice did not seek information on extending the Rule to cover audio equipment for cars, two of the comments addressed this issue.

The EIA wrote:

> Currently, there are no guidelines for the car audio manufacturers and dealers to adhere to. Some manufacturers voluntarily utilize the standards set in 1974 for advertising and measuring, however, many do not. Manufacturers and consumers are experiencing the same confusion over unequal power output claims and methods of measuring performance in the area of car audio that existed for home audio prior to the 1974 Rule. There lacks a consistent standard for measuring power output for amplifiers and there lacks a consistent standard for advertising power output claims.
>
> * * * * *
>
> EIA would support the extension of the 1974 power output Rule to cover car audio based on the same logic and market situations that initiated the Rule almost sixteen years ago.

And the individual opined:

> If truth in advertising in this area is to mean anything, this regulation must remain in place. * * *. It should be expanded to cover car audio as it is an excellent example of what happens when you let the "market" decide an issue where consumers are not technically capable.

While these comments about expanding the Rule's coverage are not relevant to the Regulatory Flexibility Act review of the Amplifier Rule, they do raise an important issue. If there is significant deception in the marketing of car audio equipment with consequent consumer and competitive harm, the Commission should consider whether to initiate a rulemaking proceeding to expand the coverage of the Rule. Commission staff is aware of the issue and has informed the EIA that if it has data demonstrating the existence of a problem, staff will be receptive to analyzing it and making an appropriate recommendation to the Commission. The EIA is aware that even if staff takes no action, EIA can petition the Commission for an amendment proceeding.

Determination

Based on the comments and foregoing analysis, the Commission has determined to continue the Amplifier Rule without any change. There does not appear to be any significant adverse economic impact on a substantial number of small entities. Further, there appears to be a continued need for the Rule to prevent the return of deception to the market and to allow businesses to compete on a level playing field.

List of Subjects in 16 CFR Part 432

Amplifiers for home entertainment, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90-13426 Filed 6-8-90; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY-030; FRL-3785-5]

Approval and Promulgation of Implementation Plans, Kentucky; State Regulation for Prevention of Significant Deterioration and Visibility New Source Review in Attainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of clarification.

SUMMARY: In this notice, EPA is clarifying certain interpretive statements contained in the **Federal Register** notice approving revisions to the Kentucky State Implementation Plan (SIP) under the Clean Air Act, 41 U.S.C. 7401–7642. That action, published on September 1, 1989 (54 FR 36307), was a final rule approving Kentucky's regulation for prevention of significant deterioration (PSD), a visibility monitoring strategy, and regulations for visibility new source review (NSR) in attainment areas. The purpose of today's notice is to clarify EPA's intent regarding certain interpretive language contained in that earlier notice. Today's action does not alter EPA's approval of the SIP revisions which were the subject of the earlier final action notice, but it does supersede the interpretive statements in that notice.

DATES: This notice is effective June 11, 1990.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: For information regarding this notice of clarification, contact Dennis Crumpler, EPA, New Source Review Section, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, North Carolina 27711, telephone (919) 541–0871, FTS 629–0871. For information regarding the September 1, 1989, approval of Kentucky's regulation for PSD, contact Richard A. Schutt at the above Region IV address or telephone (404) 347–2864, FTS 257–2864.

SUPPLEMENTARY INFORMATION: Following a December 30, 1985, public hearing in conformity with 40 CFR 51.102 (previously 40 CFR 51.4), the Commonwealth of Kentucky's Natural Resources and Environmental Cabinet (NREPC) adopted regulation changes involving PSD an visibility and submitted them to EPA on February 20, 1986, for approval as implementation plan revisions. EPA proposed to approve the revisions on March 17, 1987 (52 FR 8311). The final action notice of September 1, 1989 (54 FR 36307) finalized that approval. Specifically, EPA found that Kentucky's regulations for PSD (including stack heights and dispersion techniques), visibility monitoring, and visibility new source review in attainment areas are adequate to meet the requirements contained in 40 CFR 51.166, 51.305, and 51.307(a) and (d), respectively. See 54 FR 36310–11.

The Disputed Language in EPA's Approval of Kentucky's SIP Revisions

The September 1, 1989, notice described EPA's view of the relationship between EPA and the states under the Clear Air Act, and of the legal effect of EPA's approval of SIP measures implementing various programs under the Act. See 54 FR 36307–08. EPA pointed out that in adopting the Clean Air Act, Congress designated EPA as the agency primarily responsible for interpreting the Act and overseeing its implementation by the states. EPA also noted that it must approve state programs that meet the requirements of 40 CFR part 51. However, the Agency also referred to the very complex and dynamic nature of the Act's PSD requirements (including stack heights and dispersion techniques), and new source review and visibility programs.

Consequently, EPA noted, it would be administratively impracticable and legally unnecessary to include all statutory interpretations in the EPA regulations and the SIPs of the various states, or to amend the regulations and the SIPs everytime EPA interprets the statute or regulations or issues guidance regarding the proper implementation of the NSR program. Rather, EPA maintained that federal approval of these NSR-related regulations and narrative as part of the Kentucky SIP required the state to follow EPA's current and future interpretations of the Act's provisions and regulations, as well as EPA's operating policies and guidance, but only to the extent that such policies are intended to guide the implementation of approved state NSR programs. In making this assertion, EPA was careful to emphasize that as a matter of course any fundamental changes in the administration of NSR would have to be accomplished through amendments to the regulations in 40 CFR part 51 and subsequent SIP revisions.

EPA then explained the consequences of its approval of these portions of Kentucky's NSR programs in light of the Agency's views regarding the federal-state relationship under the Act. EPA noted that it will continue to oversee implementation of this important program by reviewing and commenting upon proposed permits as appropriate. Specifically, EPA stated, it will comment upon proposed permits that do not implement the letter of the law, as well as EPA's statutory and regulatory interpretations and applicable guidance. If a final permit is issued which still does not reflect consideration of the relevant factors, EPA stated that it may view the permit as inadequate for purposes of implementing the requirements of the Act and Kentucky's SIP, and may consider enforcement action under Sections 113 and 167 of the Act to address the permit deficiency.

Kentucky's Letter of November 17, 1989

On November 17, 1989, Mr. William C. Eddins, Director, Division of Air Quality, NREPC, submitted a letter regarding the preamble language in the September 1, 1989 notice discussed above. NREPC stated that an agreement by the state to comply with future guidelines and policies adopted by EPA would be a delegation of legislative power prohibited by the state constitution, and sought to clarify certain points regarding the September 1 **Federal Register** notice. In addition, NREPC stated that EPA should refrain from using policies and guidelines to implement substantive changes to regulatory and statutory requirements.

Litigation Regarding the September 1, 1989 Notice

A company sought judicial review of the interpretive language in the September 1, 1989, **Federal Register** notice. *Westvaco Corp.* v. *EPA*, No. 89–3975 (6th Cir.). In its brief, Westvaco asserted, *inter alia*, that the interpretive language in question constituted an improper imposition of binding regulatory requirements without proper rulemaking procedures.

EPA Clarification of Interpretive Language in the September 1, 1989 Notice

NREPC and Westvaco apparently have misinterpreted both the purpose and effect of the language in question. In response to the concerns expressed by NREPC and Westvaco, EPA today clarifies that it did not intend to suggest that Kentucky is required to follow EPA's interpretations and guidance issued under the Clean Air Act in the sense that those pronouncements have independent status as enforceable provisions of the Kentucky SIP, such that mere failure to follow such pronouncements, standing alone, would constitute a violation of the Clean Air Act. Rather, as discussed below, EPA's intent was merely to place the state and the public at large on notice of EPA's longstanding views that the Agency must continue to oversee and enforce the NSR provisions of the Act following approval of a state program. A such, strictly speaking the language in question was neither part of nor a condition of EPA's approval of Kentucky's SIP, and it has no binding effect. Rather than creating new rights or obligations, it advised the public of EPA's views regarding obligations that already exist by operation of the statutory scheme.

The issuance of NSR permits and other actions by the state in the administration of the federal Clean Air Act must conform to the requirements of the Act and the SIP. See section 167 and 113, 42 U.S.C. 7477 and 7413. In making judgments as to what constitutes compliance with the Act and regulations issued thereunder, EPA looks to (among other sources) its policy statements and interpretive rulings in effect at the time of EPA's action regarding those statutory and regulatory requirements.

It follows that state actions implementing the federal Clean Air Act which do not conform to the Act may lead to potential enforcement action by EPA. However, in defending against such an enforcement action, a party is free to assert that EPA has not reasonably interpreted the underlying statutory and regulatory provisions.

EPA's approval of a state NSR program or some portion of it does not divest the Agency of the duty to continue a vigorous oversight and enforcement role under sections 167 and 113. For example, section 167 provides that EPA shall take whatever enforcement action may be necessary to prevent construction of a major stationary source that does not "conform to the requirements of" the PSD program. Thus, as to PSD, the purpose of the preamble language in the September 1 notice was to advise Kentucky and the public of EPA's view that approval of a state's PSD program does not bar EPA from deciding whether a state-issued PSD permit conforms to the Act's PSD requirements.

Following SIP approval, then, EPA remains as the congressionally designated agency with primary responsibility to interpret the federal law under the Act and to base its enforcement actions on those interpretative rulings. If EPA determines that a state-issued permit does not conform to the Act's PSD requirements, EPA will decide whether to sue the state and/or the source for declaratory and injunctive relief. *See United States* v. *Solar Turbines, Inc.*, No. 88–0924, (M.D.Pa.) (slip op. Nov. 28, 1989).

EPA acknowledges that states have the primary role in administering and enforcing the various components of the NSR program. For the most part, the states have been successful in this effort, and EPA's involvement in interpretative and enforcement issues is limited to only a small number of cases. Consequently, EPA's continuing oversight role under the Clean Air Act leaves Kentucky and other states with considerable discretion to implement the NSR program as they see fit. First, as noted in the September 1 notice, EPA may not institute fundamental changes in the requirements set forth in its own regulations or state implementation plans through interpretive rulings or policy statements. The creation of new rights or obligations can only be accomplished by revisions to the regulations in 40 CFR parts 51 and 52 and by SIP revisions, in accordance with applicable rulemaking procedures. Second, EPA's interpretations often are intended in whole or in part to guide only EPA Regional Offices, and in such instances they have no implications whatsoever for a state's administration of its program.

In sum, states remain free to follow their own course, provided that state

action is consistent with the letter and spirit of the SIP, when read in conjunction with the Clean Air Act and EPA's regulations. EPA believes that the language in question in the September 1, 1989, notice, as clarified here, accurately describes the legal relationship between EPA and the Commonwealth of Kentucky with respect to the NSR program.

Under 5 U.S.C. 605(b), I certify that this notice will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: May 31, 1990.

F. Henry Habicht,

Acting Administrator.

[FR Doc. 90–13432 Filed 6–8–90; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 281

[FRL–3785–8]

Mississippi; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on Mississippi's application for final approval.

SUMMARY: The State of Mississippi has applied for final approval of its underground storage tank program under Subtitle I of the Resource and Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Mississippi's application and has reached a final determination that Mississippi's underground storage tank program satisfies all the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the State of Mississippi to operate its program.

EFFECTIVE DATE: Final approval for Mississippi shall be effective July 11, 1990.

FOR FURTHER INFORMATION CONTACT: John K. Mason, Chief, Underground Storage Tank Section, U.S. EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, 404/347–3866.

SUPPLEMENTARY INFORMATION:.

A. Background

Section 9004 of RCRA enables EPA to approve state underground storage tank programs to operate in a state in lieu of the federal underground storage tank program. To qualify for final authorization, a state's program must: (1) Be "no less stringent" than the federal program, and (2) provide for adequate enforcement (section 9004(a) of RCRA, 42 U.S.C. 6926(B)).

On October 2, 1989, EPA acknowledged receiving from the State of Mississippi a completed official application to obtain final approval to administer its underground storage tank program. On February 20, 1990, EPA published a tentative decision announcing its intent to grant Mississippi final approval of its program. Further background on the tentative decision to grant approval appears at 55 FR 5861, February 20, 1990.

Along with the tentative determination, EPA announced the availability of the application for public comment and the date of a public hearing on the application. EPA requested advance notice for testimony and reserved the right to cancel for lack of public interest. Since there was no public request, the public hearing was cancelled. No public comments were received regarding EPA's approval of Mississippi's underground storage tank program.

B. Decision

I conclude that the State of Mississippi's application for final approval meets all of the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, Mississippi is granted final approval to operate its underground storage tank program. The State of Mississippi now has the responsibility for managing all regulated underground storage tank facilities within its borders and carrying out all aspects of the federal underground storage tank program except with regard to Indian lands where EPA will have regulatory authority. Mississippi also has primary enforcement responsibility, although EPA retains the right to conduct enforcement actions under section 9006 of RCRA.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. This approval effectively suspends the applicability of certain federal regulations in favor of the State of Mississippi's program, thereby eliminating duplicative requirements for owners and operators of underground storage tanks within the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 281

Administrative practice and procedure, Hazardous materials, State program approval and underground storage tanks.

Authority: section 9004 of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6974(b), and 6991(c).

Dated: April 27, 1990.

Greer C. Tidwell,

Regional Administrator.

[FR Doc. 90–13440 Filed 6–8–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Refuge Specific Fishing Regulations

CFR Correction

In title 50 of the Code of Federal Regulations, parts 1 to 199, revised as of October 1, 1989, on page 481 paragraphs (a)(1) and (2) and (b) were incorrectly removed from § 33.53. Section 33.53 was added at 50 FR 29984, July 23, 1985, and amended at 53 FR 1491, January 20, 1988. The entire text of paragraphs (a) and (b) of § 33.53 reads as follows:

§ 33.53 Wisconsin.

(a) *Horicon National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 15 through September 15.

(2) Only bank fishing is permitted.

(b) *Necedah National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only in Sprague and Goose Pools including their outlets as far south as Sprague-Mather Road.

(2) Fishing is permitted from December 15 through March 15 and from June 1 through September 15.

* * * * *

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 263 and 267

[Docket No. 50340-0082]

RIN 0648-AC12

United States Standards for Grades of Fish Fillets

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA amends six existing U.S. Standards for Grades of Fish Fillets: (1) United States General Standards for Grades of Fish Fillets (50 CFR part 263, subpart A); (2) United States Standards for Grades of Cod Fillets (50 CFR part 263, subpart B); (3) United States Standards for Grades of Flounder and Sole Fillets (50 CFR part 263, subpart C); (4) United States Standards for Grades of Haddock Fillets (50 CFR part 263, subpart D); (5) United States Standards for Grades of Ocean-Perch Fillets and Pacific Ocean-Perch Fillets (50 CFR part 263, subpart E); and (6) United States Standards for Grades of North American Freshwater Catfish and Products Made Therefrom (50 CFR part 267). At the request of a seafood processor and a seafood retailer, and in consideration of comments from the public, the final rule establishes a bone-in style market form of fish fillets not previously included in the standards and makes bone-in style products eligible to bear the U.S. Grade A mark. This amendment expands and updates the scope of the standards for grades to address the market forms now available and provides consumers the choice to purchase, through clear and distinctive labeling, U.S. Grade A fish in the market style they prefer.

EFFECTIVE DATE: July 11, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas J. Moreau, 508-281-9319.

SUPPLEMENTARY INFORMATION:

Background

In 1985, NMFS received petitions under subsection 553(e) of the Adminsitrative Procedure Act, 5 U.S.C. 553(e), from a West Coast seafood processor, a West Coast seafood broker, and a West Coast retail food store chain, requesting that the voluntary standards for grades of fish fillets be amended to include a market form of "pin-bone-in fillets" to be eligible to bear the "U.S. Grade A" mark. The amendment was requested in order to address a market form that was common in West Coast markets and well accepted by the West Coast consumer. The existing U.S. grade standards pertaining to fillets included criteria specific to the bone-removed market form only. NMFS also recognized that bone-in style fillets are common in Western Europe and are addressed as a market form distinct from bone-removed fillets in the current draft international standards being developed by the Codex Alimentarius Commission's Committee on Fish and Fishery Products.

To assess the national level of interest in this new market form, NMFS published (50 FR 12591, March 29, 1985) a request for comments on the petition for rulemaking, on the desirability of amending four existing U.S. standards for grades: (1) United States General Standards for Grades of Fish Fillets; (2) United States Standards for Grades of Cod Fillets; (3) United States Standards for Grades of Haddock Fillets; and (4) United States Standards for Grades of Ocean-Perch Fillets. That notice requested respondents to address two specific questions:

1. Should the consumer have the opportunity to purchase U.S. Grade A fillets containing (pin) bones if a statement of the presence of pin bones is declared on the principal display panel of the label?

2. Should all the current fillet grade standards be amended to allow the bone-in style, or should this provision be restricted to certain species?

The anatomical definition of the term "pin bone" refers to bones radiating laterally from the spinal column and dorsal to (above) the ribs. However, as stated in the request for comments, a pin bone, as generally understood by industry and NMFS, is any bone radiating downwards from the spinal column and running adjacent to the visceral cavity, including rib bones.

NMFS received 137 comments on the March 29, 1985 notice. Based on the comments received, NMFS published in the **Federal Register** (54 FR 23235, May 31, 1989) a proposed rule to amend all the current U.S. Standards for Grades of Fish Fillets; comments received in response to the March 29, 1985 **Federal Register** notice were summarized in the preamble of the proposed rule. In addition to publication in the **Federal Register**, NMFS distributed approximately 2,000 copies of the proposed rule to participants in the voluntary seafood inspection program, as well as other seafood processors, state purchasing agencies, Veterans Administration hospitals, school food service offices, state departments of agriculture, seafood trade associations, and other interested parties.

Comments and Responses

At the end of the 60-day comment period, 27 comments had been received. At the request of the National Fisheries Institute, the largest trade association representing seafood processors and brokers in the United States, a 30-day notice of extension of comment period was published in the **Federal Register** on August 7, 1989 (54 FR 32632). No additional comments were received during the extension period.

The 27 comments received represented seven seafood industry members (four supportive and three opposed), one retail firm (opposed), 11 representatives of the Veterans Administration Dietetic Service (one supportive, ten opposed), five comments from other food service dietitians (all opposed), one state central purchasing division (opposed), and two comments from individual consumers (both opposed).

The majority of the opposing comments, especially from the health care professionals, expressed concern about the hazards of bone-in fillets for geriatric patients and reflected the fear that if Grade A fillets were allowed to have pin bones, they would no longer be able to purchase Grade A fillets with the pin bones removed. This is not the case—the amendment will maintain the consumer's choice to purchase Grade A fillets with bones removed, as well as provide the opportunity to purchase a Grade A cut of fish with bones not removed, just as the consumer may choose to purchase chicken breasts, for example, with or without the bones.

Recognizing the FDA ruling (discussed in the proposed rule) that the word "fillet" would be inappropriate for fillets containing pin bones because "fillet" is generally understood to mean boneless, a permissable label for bone-in fish cuts could read "fillet cut, with bones" or "fillet style, semi-boneless," along with the species identification. Thus, consumers will be provided information necessary to distinguish different market forms.

A few other comments addressed the impact of the amendment on the price of fillets. Some commenters predicted that "fillet cut, bone-in" would permit a lower cost product than is now available to the consumer, while others predicted that the cost of the boned fillet

would rise and the "fillet cut, bone-in" product would fall into the current price category of the bone-removed fillet. NOAA disagrees.

Under the Agricultural Marketing Act of 1946, as amended, NOAA is directed and authorized "to develop and improve standards * * * and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices." In the interest of promoting fair trade of graded products, consistent with its legislative directive, NOAA recognizes the "fillet cut, bone-in" market form as distinct from the "fillet," a bone-removed product. The standards for fillets, to include a previously excluded market form, are being amended to address this market style of fish meat. This amendment requires that the principal display panel be clearly labeled to show that the product contains bones.

Classification

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02-10.

The Under Secretary for Oceans and Atmosphere has determined that this final rule is not a "major rule" requiring preparation of a regulatory impact analysis under Executive Order (E.O.) 12291. It will not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices; nor will it have a significant adverse effect on competition, employment, investment, productivity or innovation.

The General Counsel of the Department of Commerce certified to the Small Business Administration when this rule was proposed, that the rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The rule is expected to facilitate grading and trade in frozen fish fillets while not imposing any new costs on industry. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Parts 263 and 267

Food grades and standards, Frozen foods, Seafood.

Dated: June 1, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, chapter II of title 50, Code of Federal Regulations, is amended as follows:

PART 263—[AMENDED]

1. The authority citation for Part 263 is revised to read as follows:

Authority: 7 U.S.C. 1621–1630; Reorganization Plan No. 4 of 1970 (84 Stat. 2090).

2. Section 263.101 of Subpart A—United States General Standards for Grades of Fish Fillets, is amended by adding a new paragraph (c) to read as follows:

§ 263.101 Scope and product description.

* * * * *

(c) The product may contain bones when it is clearly labeled on the principal display panel to show that the product contains bones.

3. Section 263.102 is amended by adding a new paragraph (c) to read as follows:

§ 263.102 Product forms.

* * * * *

(c) *Bone classifications.* (1) Practically boneless fillet.

(2) Bone-in (fillet cut, with bones).

4. Section 263.104 is amended by adding a sentence to the end of paragraph (e)(4) to read as follows:

§ 263.104 Grade determination.

* * * * *

(e) * * *

(4) * * * In fillets intended to contain bones, the presence of bones will not be considered a workmanship defect.

* * * * *

5. Section 263.151 of Subpart B—United States Standards for Grades of Cod Fillets, is amended by adding a sentence before the parenthetical at the end of the section and revising the parenthetical to read as follows:

§ 263.151 Product description.

* * * The product may contain bones when it is clearly labeled on the principal display panel to show that the product contains bones. (This subpart does not provide for the grading of pieces of fish flesh cut away from previously frozen fish blocks, slabs, or similar products.)

6. Section 263.154 is amended by adding a new paragraph (c) to read as follows:

§ 263.154 Product forms.

* * * * *

(c) *Bone classifications.* (1) Practically boneless fillet.

(2) Bone-in (fillet cut, with bones).

7. Section 263.166 is amended by revising paragraph (a)(4) to read as follows:

§ 263.166 Workmanship defects.

(a) * * *

(4) *Bones.* One "instance of bone" means one bone or one group of bones occupying or contacting a circular area up to 1 square inch (6.5 cm^2). In fillets intended to contain bones, the presence of bones will not be considered a workmanship defect.

* * * * *

8. Section 263.201 of Subpart C—United States Standards for Grades of Flounder and Sole Fillets, is amended by revising the section heading and by adding a sentence at the end of the section to read as follows:

§ 263.201 Product description.

* * * * *

The product may contain bones when it is clearly labeled on the principal display panel to show that the product contains bones.

9. Section 263.202 is amended by adding a new paragraph (c) to read as follows:

§ 263.202 Product forms.

* * * * *

(c) *Bone classifications.* (1) Practically boneless fillet.

(2) Bone-in (fillet cut, with bones).

10. Section 263.221 is amended by revising paragraph (d) to read as follows:

§ 263.221 Definitions.

* * * * *

(d) *Bones normally removed* refers to belly flap bones (adjacent to visceral cavity) and to radial bones (adjacent to fins and lace area). In fillets intended to contain bones, to presence of bones will not be considered a workmanship defect.

* * * * *

11. Section 263.251 of Subpart D—United States Standards for Grades of Haddock Fillets, is amended by adding a sentence before the parenthetical at the end of the section and revising the parenthetical to read as follows:

§ 263.251 Product description.

* * * The product may contain bones when it is clearly labeled on the principal display panel to show that the product contains bones. (This subpart does not provide for the grading of

pieces of fish flesh cut away from previously frozen fish blocks, slabs, or similar products.)

12. Section 263.254 is amended by adding a new paragraph (c) to read as follows:

§ 263.254 Product forms.

* * * * *

(c) *Bone classifications.* (1) Practically boneless fillet.

(2) Bone-in (fillet cut, with bones).

13. Section 263.266 is amended by adding a sentence at the end of paragraph (a)(4) to read as follows:

§ 263.266 Workmanship defect.

(a) * * *

(4) * * * In fillets intended to contain bones, the presence of bones will not be considered a workmanship defect.

* * * * *

14. Section 263.301 of Subpart E—United States Standards for Grades of Ocean-Perch Fillets and Pacific Ocean-Perch Fillets, is amended by adding a sentence at the end of the section to read as follows:

§ 263.301 Product description.

* * * The product may contain bones when it is clearly labeled on the principal display panel to show that the product contains bones.

15. Section 263.304 is amended by adding a new paragraph (c) to read as follows:

§ 263.304 Product forms.

* * * * *

(c) *Bone classifications.* (1) Practically boneless fillet.

(2) Bone-in (fillet cut, with bones).

16. Section 263.316 is amended by adding a sentence at the end of paragraph (a)(4) to read as follows:

§ 263.316 Workmanship defects.

(a) * * *

(4) * * * In fillets intended to contain bones, the presence of bones will not be considered a workmanship defect.

* * * * *

PART 267—[AMENDED]

17. The authority citation for part 267 continues to read as follows:

Authority: 16 U.S.C. 742e; 7 U.S.C. 1622, 1624.

18. Section 267.101 is amended by adding a new paragraph (d) to read as follows:

§ 267.101 Scope and product description.

* * * * *

(d) The product may contain bones when it is clearly labeled on the principal display panel to show that the product contains bones.

19. Section 267.102 is amended by adding a new paragraph (d) to read as follows:

§ 267.102 Product presentation.

* * * * *

(d) *Bone classifications.* (1) Practically boneless fillet.

(2) Bone-in (fillet cut, with bones).

20. Section 267.104 is amended by revising paragraph (d)(9) to read as follows:

§ 267.104 Grade determination.

* * * * *

(d) *Examination for physical defects.*

* * *

(9) *Bones* (including pin bone) apply to all fillet and nugget market forms. Each bone is a bone or a part of a bone that is 3/16 inch (0.48 cm) or more at its maximum length or 1/32 inch (0.08 cm) or more at its maximum shaft width, or for bone chips, a length of at least 1/16 inch (0.16 cm). An excessive bone defect is any bone that cannot be fitted into a rectangle that has a length of 1 9/16 inch (3.97 cm) and a width of 3/8 inch (0.95 cm). In market forms intended to contain bones, the presence of bones will not be considered a physical defect.

* * * * *

[FR Doc. 90-13268 Filed 6-8-90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 112
Monday, June 11, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1810 and 1980

Program Regulations; Guaranteed Farmer Program Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes a revision of its guaranteed loan program regulations. This proposed action will increase the guarantee fee on guaranteed loans to offset some of the administrative costs for implementing the different guaranteed programs. The rate will vary per program. The intended effect of this action is to increase the fee to partically cover administrative and default costs.

DATES: Comments must be received on or before August 10, 1990.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6348, South Agriculture Building, 14th & Independence Avenue, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours of the above address.

FOR FURTHER INFORMATION CONTACT: Diana Smargie, Business and Industry Loan Specialist, Farmers Home Administration, USDA, room 6327, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 475–3818.

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291 and has been determined to be non-major. The annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Review

The programs impacted by this action are listed in the Catalog of Federal Domestic Assistance under numbers 10.422, Business and Industrial Loans; 10.423, Community Facilities Loans; 10.418, Water and Waste Disposal Systems Loans; 10.406, Farm Operating Loans; and 10.429, Rural Housing Guaranteed Loans. These programs are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983). FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instructions 1901–H.

Environmental Impact Statement

This proposed action has been reviewed in accordance with 7 CFR part subpart G, "Environmental Program." FmHA has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act Statement

La Verne Ausman, Administrator, Farmers Home Administration has determined that this action will not have a significant economic impact on a substantial number of small entities because at this time it only affects the Business and Industry Program which focuses on loans to businesses for $500,000 or more and has little impact on small entities.

Background

The current regulations for the FmHA guaranteed programs set the guarantee fee at 1% for all program areas. OMB Circular A–129 states that fees shall be required on guaranteed loans to cover agency administrative and servicing costs and all or a portion of the estimated costs to the Government of default. This proposed action would increase the fee accordingly to each program area's requirement. Since the guarantee fee will be different for each program area and will be changing at different periods of time, a special exhibit will be established to delineate the different rates for the different program areas.

List of Subjects in 7 CFR Parts 1810 and 1980

Loan programs—Agriculture, Business and industry, Rural areas, Loan programs—Housing and community development.

Accordingly, title 7, chapter XVIII, of the Code of Federal Regulations is proposed to be amended as follows:

PART 1810—INTEREST RATES, TERMS, CONDITIONS, AND APPROVAL AUTHORITY

1. The authority citation for Part 1810 is added to read as follows and the authority citation at the end of § 1810.2 is removed.

Authority: 7 U.S.C. 1989; 14 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

2. The title of subpart A is amended by adding the words "Guarantee Fee," after "Amortization,".

3. Section 1810.1 is revised to read as follows:

§ 1810.1 Information concerning interest rates, amortization, guarantee fee, annual charge, and fixed period.

(a) Tables for computing the interest rates (including the annual charge rates and length of fixed period for initial repurchase agreement for insured loans), tables for use in determining the amounts of interest on loans at different rates, tables providing factors in amoritizing loans, and the guarantee fee for guaranteed loans, may be obtained from any County, District, or State Office of FmHA or from its National Office at 14th and Independence Avenue SW., Washington, DC 20250.

(b) In the event that the tables provided for in paragraph (a) of this section do not furnish adequate information, questions should be directed to the Assistant Administrator,

Finance Office, Farmers Home Administration, 1520 Market Street, St. Louis, Missouri 63103.

PART 1980—GENERAL

4. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—General

5. Section 1980.21 is revised to read as follows:

§ 1980.21 Guarantee fee.

(a) *Initial fee.* The fee will be the applicable rate multiplied by the principal loan amount or the Line of Credit ceiling amount multiplied by the percent of guarantee, paid one time only at the time the Loan Note Guarantee or Contract of Guarantee is issued. The fee will be paid to FmHA by the lender and is nonreturnable. The fee may be passed on to the borrower. Guarantee fee rates are specified in Exhibit K of the FmHA Instruction 440.1 (available in any FmHA office).

(b) *Substitution fee.* In the event FmHA agrees to issue a loan note guarantee in substitution for a Form FmHA 449–17, "Contract of Guarantee," issued under previous regulations (see § 1980.61(b)(2)) the lender will pay to FmHA at the time the substitution is made nonrefundable, one-time fee at the applicable rate multiplied by the current principal loan balance multiplied by the percent guarantee. Guarantee fee rates are specified in Exhibit K of the FmHA Instruction 440.1 (available in any FmHA office).

6. Section 1980.41 is amended by revising paragraph (a) to read as follows:

§ 1980.41 Equal opportunity and nondiscrimination requirements.

(a) *Equal Credit Opportunity Act.* In accordance with title V of Public Law 93–495, the Equal Credit Opportunity Act, with respect to any aspect of a credit transaction, neither the lender nor FmHA will discriminate against any applicant on the basis of race, color, religion, national orgin, age, sex, marital status or physical/mental handicap providing the applicant can execute a legal contract or because all or part of the applicant's income derives from any public assistance program or because the applicant in good faith, exercised any rights under the Consumer Protection Act. The lender will comply with the requirements of this Act as set forth in the Federal Reserve Board's Regulation implementing this Act (see 12 CFR part 202). Such compliance will be accomplished prior to loan closing.

* * * * *

Dated: April 9, 1990.

LaVerne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90–13363 Filed 6–8–90; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Drug Benefits; Appropriate Level of Care Provisions

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This would amend the DoD 6010.8–R (32 CFR part 199) by: (1) Establishing the absolute requirement for approval by the Food and Drug Administration of all prescription drugs and medicines; (2) clarifying that medical care involving the use of Group C drugs (approved and distributed by the National Cancer Institute) will not automatically be considered as experimental; and (3) removing a provision that allows benefits in a facility above the appropriate level of care. The above changes are reasonable and necessary for effective and uniform administration of CHAMPUS.

DATES: Written public comments must be received on or before July 11, 1990.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Tariq Shahid, Office of Program Development, OCHAMPUS, telephone (303) 361–3587.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7834, appearing in the Federal Register on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as part 199 of this title. The 32 CFR part 199 (DoD 6010.8–R) was reissued in the Federal Register on July 1, 1986 (51 FR 42008).

I. Drug Listing in the U.S. Pharmacopeia or the National Formulary

Section 199.4(d)(3)(vi) provides for the prescription drug and insulin benefit under the Basic Program and § 199.5(h)(2)(iii) provides for this benefit under the Program for the Handicapped. Section 199.4(d)(3)(vi)(B) states that "CHAMPUS benefits may not be extended for drugs not approved by the U.S. Food and Drug Administration for general use by humans (even though approved for testing with humans)." Also, § 199.5(h)(2)(iii) limits coverage of drugs "to those approved for general use by humans (other than testing) by the U.S. Food and Drug Administration." But in § 199.2 under the definition of "*Experimental,*" there is a provision which reads "However, if a drug or medicine is listed in the *U.S. Pharmacopeia* or the *National Formulary* and requires a prescription, it is not considered experimental even if it is under investigation by the U.S. Food and Drug Administration [FDA] as to its effectiveness." In a recent appeal case, we discovered that this provision can unreasonably result in CHAMPUS payment for a drug that has not been approved for general use by the FDA. The *U.S. Pharmacopeia* and the *National Formulary* are merely the official compendia of standards for drugs which include assays and tests for the determination of their strength, quality, and purity. These compendia do not deal with clinical indications, pharmacology, safety, or effectiveness of drugs. Since the FDA approval requirement is intended to assure safety and effectiveness of drugs, we believe it is appropriate to delete the above provision related to drug listing in the *U.S. Pharmacopeia* and the *National Formulary* which could unreasonably result in CHAMPUS benefits for unapproved drugs. Accordingly, this proposed rule would revise the definition of "*Experimental*" in § 199.2 by deleting the above provision.

II. Group C Drugs

Under its Cancer Therapy Evaluation, the Division of Cancer Treatment of the National Cancer Institute (NCI), in cooperation with the FDA, approves and distributes certain drugs for use in treating terminally ill cancer patients. One group of these drugs, designated as Group C drugs, unlike other drugs distributed by the NCI, are not limited to use in clinical trials for the purpose of testing their efficacy. The Group C drugs are distributed to the NCI registered physicians at no cost. Drugs are classified as Group C drugs only if there

is sufficient evidence demonstrating their efficacy within a tumor type and that they can be safely administered. Therefore, medical care involving use of Group C drugs should not automatically be considered as experimental even if these drugs are not approved for general use by the FDA. Currently, the definition of "*Experimental*" in § 199.2 precludes CHAMPUS benefits for such medical care as the Group C drugs are not FDA approved for general use. This proposed rule would revise the above definition clarifying that such medical care cannot automatically be considered as experimental.

III. Appropriate Level of Care

The CHAMPUS law and regulation limit CHAMPUS cost-sharing to care which is determined to be medically necessary and furnished at the appropriate level. However, the CHAMPUS regulation does contain the following provision (§ 199.4(b)(1)(iv)) which can allow benefits in a higher than the appropriate level care facility.

"Inpatient, appropriate level required. For purposes of inpatient care, the level of institutional care for which Basic Program benefits may be extended must be at the appropriate level required to provide the medically necessary treatment. If an appropriate lower level care facility is adequate, but is not available in the general locality, benefits may be continued in the higher level care facility, but CHAMPUS institutional benefit payments shall be limited to the allowable cost that would have been incurred in the appropriate lower level care facility, as determined by the Director, OCHAMPUS, or a designee. If it is determined that the institutional care can be provided reasonably in the home setting, no CHAMPUS institutional benefits are payable."

First, we need to clarify that the above provision which permitted an exception for CHAMPUS coverage of a level of care above what is deemed to be an appropriate level of care was never intended to authorize coverage of care which is otherwise inconsistent with appropriate medical treatment. That is, the provision was applicable only when the care being furnished was otherwise medically appropriate but the same care could have been furnished at a less expensive level of care or medical environment which was not immediately available to the patient in the general locality. With advances in technology and transportation, patients can now easily be transferred or transported to appropriate level care facilities outside a general locality within a reasonable time. At this time, there is no real basis to retain the provision which permitted an exception for CHAMPUS coverage of a level of care above an appropriate level.

Secondly, the above provision appears to be incompatible with general administration of the CHAMPUS mental health care benefit. In the area of mental health, the level of care also impacts the appropriateness of the treatment for an individual patient. For example, acute inpatient psychiatric hospitalization represents not only a different level of care than that provided in other mental health inpatient settings, but often a different kind of care as well. It is often the case that a beneficiary who would benefit from the less structured environment of a residential treatment center (RTC) would not benefit as much from the more structured acute care environment. When dealing with mental health patients, care furnished above the appropriate level signifies more than merely that it was too much or too expensive; it may also involve care which was not medically appropriate.

A strict application of the controlling phrase in the cited regulation provision providing an exception to the requirement for appropriate level of care for CHAMPUS coverage would be incompatible with general administration of the CHAMPUS RTC care benefit. The phrase "If an appropriate lower level care facility is adequate, but is not available in the general locality," addresses that type of care which is generally available within most communities but is not immediately available in a particular case because of a lack of beds or other resources necessary to meet the demand for care. The "general locality" phrase, then, would appear inapplicable to RTC care. That is, under the CHAMPUS RTC care benefit, the exceptional circumstance which the rule intended to address becomes the usual circumstance.

Currently, only 84 RTCs have been approved as CHAMPUS authorized RTCs in the United States. Therefore, RTC care, in most cases, will not be available within the "general locality" if that term is interpreted to mean that a beneficiary should not have to travel some distance to obtain RTC care. RTCs are not available near every beneficiary's home or military sponsor's duty station; it is the exception when an RTC is within easy commuting distance for a beneficiary. It is apparent, then, that RTC care always involves the removal of a beneficiary from one environment and the beneficiary's placement in a new environment, usually on a long-term basis, irrespective of the distance involved.

Therefore, for effective and uniform administration of the CHAMPUS RTC care benefit, distance cannot be a significant factor in determining the availability of an RTC; otherwise, the exception would become the rule in administering the RTC benefit. Thus, application of the CHAMPUS provision permitting an exception for CHAMPUS coverage of an inappropriate level of care when the appropriate level is not available within the "general locality" to residential treatment care is incompatible with effective and uniform administration of the CHAMPUS RTC care benefit.

Finally, we believe that the cited regulation provision also conflicts with the recently implemented CHAMPUS prospective payments systems. That is, the phrase "benefits may be continued in the higher level care facility, but CHAMPUS institutional benefit payments shall be limited to the allowable cost that would have been incurred in the appropriate lower level care facility" would circumvent the reimbursement systems established under the CHAMPUS DRG-based payment system and the mental health inpatient per diem system, which prospectively set payment amounts for admissions to acute care and psychiatric hospitals.

Accordingly, this proposed rule would revise § 199.4(b)(1)(iv) by removing the provision which permits an exception to the requirement for appropriate level of care for CHAMPUS coverage. We believe, the CHAMPUS policy on appropriate medical care is consistent with other third-party payer policies as it restricts coverage to care provided within the generally accepted norms for medical care within the United States, provided by authorized providers qualified to furnish the care, and provided in a medical environment or level of care adequate to furnish the required care.

This amendment is being published for proposed rulemaking at the same time as it is being coordinated within the Department of Defense, with the Department of Health and Human Services, the Department of Transportation and with other interested agencies, so that consideration of both internal and external comments and publication of the final rule can be expedited.

Regulatory Procedures

Executive Order 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one which would:

Result in annual effect on the national economy of $100 million or more;

Result in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic regions; or

Have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The Regulatory Flexibility Act requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have significant impact on a substantial number of small entities.

Under both the Executive Order and the Regulatory Flexibility Act, such analsyses must, when prepared, examine regulatory alternatives which minimize unnecessary burden or otherwise assure that regulations are cost-effective.

It is hereby certified that this proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Also, it is not a "major rule" under Executive Order 12291. Therefore, no regulatory impact analysis is required.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military Personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. § 199.2 is amended by revising the definition of "*Experimental*" under § 199.2(b) to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Experimental. Medical care that essentially is investigatory or an unproven procedure or treatment regimen (usually performed under controlled medicolegal conditions), that does not meet the generally accepted standards of usual professional medical practice in the general medical community. The conduct of biomedical or behavioral research involving human subjects at risk of physical, psychological, or social injury is experimental medicine. For the purposes of CHAMPUS, any medical services or supplies provided under a scientific research grant, either public or private, are classified as "experimental." (Financial grants-in-aid to an individual beneficiary are not considered grants for this purpose.) Use of drugs and medicines and devices not approved by the U.S. Food and Drug Administration (FDA) for general use by humans (even though approved for testing on human beings) also is considered experimental. However, medical care related to the use of certain cancer drugs, designated as Group C drugs (approved and distributed by the National Cancer Institute and are non-reimbursable under CHAMPUS), may not be considered experimental even if such drugs are not approved for general use by the FDA.

Note: In areas outside the United States, standards comparable to those of the U.S. Food and Drug Administration are the CHAMPUS objective.

* * * * *

3. § 199.4 is amended by revising paragraph (b)(1)(iv) to read as follows:

§ 199.4 Basic Program benefits.

* * * * *

(b) * * *

(1) * * *

(iv) *Inpatient, appropriate level required.* For purposes of inpatient care, the level of institutional care for which Basic Program benefits may be extended must be at the appropriate level required to provide the medically necessary treatment.

* * * * *

Dated: May 30, 1990.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-13388 Filed 6-8-90; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3784-6]

Approval and Promulgation of Implementation Plans; Ohio: Revisions to the Sulfur Dioxide Emission Limitations and Numerous Shutdown Sources Within Cuyahoga County

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: USEPA proposes to revise the sulfur dioxide (SO_2) emission limitations for LTV Steel-Cleveland District, EI DuPont, the Medical Center, Reilly Tar and Chemical, and numerous shutdown sources within the federally promulgated State Implementation Plan (SIP) for Cuyahoga County, Ohio. USEPA is proposing this revision at the request of the State. On August 27, 1976, USEPA promulgated SO_2 emission limitations for sources in Cuyahoga County, Ohio. The revisions being proposed today represent: (1) An alternative State-developed strategy for LTV Steel, (2) revised emission limits reflecting the fuel types currently burned at DuPont, the Medical Center, and Reilly Tar and Chemical, and (3) revised emission limits reflecting the shutdown status of numerous sources throughout the county. (No revision to the current federally approved emission limit is being proposed for the remainder of the sources in the county.)

DATES: Written comments must be received on or before July 26, 1990. Requests for a public hearing on this proposal must be received by no later than June 26, 1990. A time and place for a public hearing will be announced in the **Federal Register** at a later date, if a hearing is requested.

ADDRESSES: Comments on this proposed rule and requests for a public hearing should be sent to: (Please submit an original and five copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of all relevant information to this action is contained in the docket for this revision (5A-88-2). This docket is available for inspection at the above regional office and at: Central Docket Section (A-130), U.S. Environmental Protection Agency, Room West Gallery—1, 401 M Street SW., Washington, DC 20460.

The modeling data study is also available at the following address: Ohio Environmental Protection Agency, 1600 WaterMark Drive, Columbus, Ohio 43266-0149.

FOR FURTHER INFORMATION CONTACT: Maggie Greene at (312) 886-6029. (It is recommended that you telephone Ms. Greene before visiting the Regional Office.)

SUPPLEMENTARY INFORMATION: This notice discusses USEPA's analysis in four parts. I. Background, II. Modeling Supporting Emission Limits, III. Stack Height Issues, and IV. Proposed Action.

I. Background

On August 27, 1976, the United States Environmental Protection Agency (USEPA) promulgated regulations

establishing the State Implementation Plan (SIP) for the control of SO_2 for the State of Ohio. The 1976 regulations for Cuyahoga County, Ohio, included the Republic Steel-Cleveland District plant. Republic Steel, now LTV Steel, challenged the regulations citing: (1) Errors in the modeled emission inventory, (2) USEPA's failure to adopt a less costly, equally effective control strategy, and (3) the lack of a reasonable basis for USEPA's technical decision (see Case Nos. 76–2238 and 77–1351, U.S. Court of Appeals for the Sixth Circuit).

In 1977, USEPA and LTV Steel initiated discussions on a site-specific SIP revision for the Cleveland District plant which would address LTV's concerns. Although these discussions led to a Notice of Proposed Rulemaking (see 44 FR 46893), the existence of modeled violations of the 3-hour ambient standard has prevented USEPA from further action on LTV's revised strategy. Since 1979, little progress has been made on developing an approvable strategy.

Note: In addition to the emission inventory errors cited by LTV, modeling showed 3-hour violations under the current federally promulgated plan. This further necessitated the need for a site-specific plan revision.

In late 1988, USEPA reinitiated discussions with Ohio Environmental Protection Agency (OEPA) and LTV Steel on a revised SO_2 SIP for the LTV Cleveland Plant. USEPA has been providing status reports to the U.S. Court of Appeals for the Sixth Circuit on this matter. In its latest report, filed October 1989, USEPA requested that because the parties are attempting to resolve the care through this administrative rulemaking, the case should be held in abeyance until April 30, 1990.

The new LTV control plan was developed and supported by the State of Ohio, with input from LTV Steel and USEPA. The State regulations are currently being revised to reflect this plan. USEPA has reviewed and accepts the emission limits in the State plan.

However, USEPA is not rulemaking on the State's regulations because they contain unapprovable compliance test methods.[1] Therefore, Ohio requested that USEPA instead revise the Federal plan. USEPA is hereby proposing to revise the Federal Implementation Plan (FIP) for Ohio to reflect the same emission limitations.

In addition to developing new limits for LTV, OEPA decided to use this opportunity to update the FIP for the entire county and to re-examine the emission limit for those sources affected by USEPA's Stack Height Regulations.

II. Modeling Supporting Emission Limits

The basic elements of the modeling are summarized below. It should be noted that the modeling techniques used in the demonstration supporting this revision were based on the modeling guidelines in place at the time the analysis was performed (i.e., "Guideline on Air Quality Models (Revised)," July 1986). Since that time, USEPA has promulgated a revision to the guideline (i.e., "Supplement A to the Guideline on Air Quality Models (Revised)," July 1987). Because there was a written protocol for the analysis and the modeling was essentially complete prior to the January 6, 1988, date of publication of the revised guidance, USEPA accepts the analysis as it stands.

The modeling consisted of using the ISCST model, with the most recent 5 years of Cleveland National Weather Service data. All point sources within 10 kilometers (km) and certain major sources within 50km (i.e., Centerior Energy Corporation (CE)-Eastlake, CE-Avon Lake, Ohio Edison (OE)-Edgewater) were explicitly modeled.

Note: (1) Several inventories were prepared and modeled for LTV to reflect various operational and fuel distribution scenarios; (2) Stack credits were restricted, consistent with USEPA's Stack Height Regulations (see "Stack Height Issues"); (3) Maximum allowable operation was assumed for all sources; and (4) Stacks less than the Good Engineering Practice (GEP) formula height were modeled for building downwash.

The emission inventory for LTV Steel reflects the complex nature of iron and steel facilities and the multiple fuel types available. The following factors were considered in preparing the inventory:

(1) By-product gases (blast furnace gas [BFG] and coke oven gas [COG]) are the primary fuels (i.e., burned first). Coal, oil, and natural gas [NG] are used as supplemental fuels. A mixed gas system delivers BFG, COG, and NG to each boiler and furnace. The boiler/furnace closest to a by-product gas source can be expected to have first priority on that gas.

(2) COG at No. 1 Coke Plant is desulfurized (sweet gas), and COG at No. 2 Coke Plant is not desulfurized (sour gas).

(3) All boilers and the 84" mill furnaces can burn Plant No. 2 COG, but there is not enough of this COG available (1,129,300 cubic feet per hour (cf/hr)) to fire all of these sources simultaneously at full load (7,662,300 cf/hr).

(4) Actual consumption of Plant No. 2 COG through the mixed gas system depends on the operation of certain facilities, especially the 84" mill and the blast furnaces. To address this varible distribution, many different operating scenarios were considered in developing the proposed regulations.

The modeling demonstrated attainment of the 3-hour secondary, 24-hour primary, and annual primary NAAQS. The constraining concentrations were predicted to occur over land just north of the No. 1 Powerhouse, and just south of the 84" mill.

III. Stack Height Issues

On June 30, 1986, and October 20, 1986, OEPA submitted its review of sources in Cuyahoga County, pursuant to USEPA's July 8, 1985, (50 FR 27892) Stack Height Regulations. These regulations, which implement the stack height provisions of section 123 of the Clean Air Act, apply to stacks and sources which came into existence and dispersion techniques implemented on or after December 31, 1970. Stack height credit for purposes of establishing an emission limit is restricted to good engineering practice (i.e., the greater of 65 meters (m) or the GEP formula height). Credit for merged stacks is generally prohibited, with the following exceptions:

(1) Where total plantwide allowable SO_2 emissions do not exceed 5000 tons per year;

(2) Where the stack was originally designed and constructed with merged gas streams;

(3) Where such merging was before July 8, 1985, and was part of a change in operation that: (a) Included the installation of control equipment or was carried out for sound economic or engineering reasons, and (b) did not result in an increase in the emission limitation or (if no limit was in existence prior to merging) in the actual emissions; or

(4) Where such merging was after July 8, 1985, and was part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the

[1] The State regulations allow compliance to be based on either: (a) Stack gas sampling (pursuant to 40 CFR 60.46); (b) continuous emissions-monitoring data averaged over a 30-day period, or (c) fuel sampling and analysis data averaged over a 30-day period. On January 27, 1981 (46 FR 8481) and April 13, 1982 (47 FR 15782), USEPA stated that the 30-day averaging provisions were not approvable because Ohio had not demonstrated that such a time period is adequate to assure attainment and maintenance of the short-term SO_2 NAAQS. USEPA still cannot accept Ohio's compliance test methodology because the necessary technical support making such a demonstration has not been submitted.

allowable emissions for the pollutant affected by the changed operation.

Ohio identified four sources with stacks greater than 65m and five sources with SO_2 emissions greater than 5,000 tons of SO_2 per year. Credit for physical stack height and other dispersion techniques are discussed below.

Physical Stack Height—All stacks in Cuyahoga County that are greater than 65m (CE-Lakeshore, CE-Hamilton Avenue, CE-Canal Road, and LTV-Steel) were in existence before 1971 and are, thus, not subject to the Stack Height Regulations. (Ohio cited dated photographs and dated drawings to support the "in existence" showing.)

Dispersion Techniques—At four of the five sources emitting at greater than 5,000 tons per year (CE-Lakeshore, Medical Center, LTV, and Ford Engine Plant), the sources were in existence before 1971 and are, thus, not subject to the Stack Height Regulations. (Ohio cited information provided by the companies and dated drawings to support the "in existence" showing.) For the other source (ALCOA), the two stacks serving Boilers 1–5 were replaced with one stack after 1970. The current modeling analysis examined two stacks (i.e., no credit granted for merged gas streams). The State concluded, however, that based on this modeling, no change in Alcoa's current emission limitation is necessary.

USEPA's Stack Height Regulations were challenged in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit issued its decision affirming the regulations in large part, but remanding three provisions to the USEPA for consideration. These are:

1. Grandfathering pre-October 11, 1983, within-formula stack height increases from demonstration requirements (40 CFR 51.100(kk) (2));
2. Dispersion credit for sources originally designed and constructed with merged or multiflue stacks (40 CFR 51.100(hh)(2)(ii)(A); and
3. Grandfathering pre-1979 use of the refined H + 1.5L formula (40 CFR 51.100(ii)(2)).

None of these provisions affect the sources in Cuyahoga County. Note, of the three sources modeled which are located outside Cuyahoga County (CE-Eastlake, CE-Avon Lake, and OE-Edgewater), all have stacks greater than 65m and have allowable SO_2 emissions greater than 5000 tons per year.

GEP parameters were modeled for all three sources. (Eastlake and Avon Lake are discussed in a separate rulemaking action—see 55 FR 311). Edgewater is not subject to the Stack Height Regulation because the boilers and stacks were in existence before 1971.)

IV. Proposed Action

A. *Emission Limitations*—Upon the request of the State, an emission limit of 0.00 lbs/MMBTU (effective upon promulgation) will be established for the sources listed below. This limit reflects the current shutdown status of these sources.

Addressograph
Lincoln Electric
Allied Chemical
Lear Siegler
Highland View Hospital (Boilers 1–4)
City of Cleveland Division of Light and Power
USS–Cuyahoga Works (Boilers 3–7)
Lakewood Incinerator
Mt. Sinai Hospital (Boilers 1–3)
E.I. DuPont (sulfur, burning contact process)
N.L. Industries
Forest City Foundries, (Maywood Ave. Plant)
NASA Lewis Research Center
Metal Blast
Euclid Incinerator
Chemtron
SOHIO–Asphalt Plant
Fisher Body Division, GMC
Polyclinic Hospital (Boilers 1–2)
Independent Towel Supply
Hupp
VA Hospital (Boilers 1–3)
Cleveland Water Department
Division Pumping Station
General Electric–E. Cleveland
General Electric–Euclid (Boiler 4)
USS–Lorain Cuyahoga Works
Forest City Foundries (W 27th St Plant)
Harshaw Chemical
TRW

Upon the request of the State, revised emission limits are proposed for E.I. DuPont (Boiler 18), Medical Center (Boilers 1, 2), and Reilly Tar and Chemical to reflect a change in the fuel type currently used (i.e., natural gas), and revised emission limits are proposed for LTV Steel to reflect the alternative control strategy.

For the sources listed below, USEPA is not proposing to revise the existing emission limits, compliance test methods, or compliance dates. However, because of the recodification of the limits contained in 40 CFR 52.1881(b)(23) for the Cuyahoga County sources, the numbering of these regulations have been changed.

CE–Canal Road Plant
CE–Hamilton Avenue Plant
ALCOA
Medical Center (Boilers 3, 4, 7, 8)
Ford–Engine
Ford–Engine–Casting
Chase Bag
General Electric–Euclid (Boiler 1)
Chevrolet
Ford–Stamping
Centerior Energy–Lakeshore Plant
USS–Cuyahoga Works (Boilers 1, 2)

B. *Compliance Test Methods*—For LTV, the primary compliance test methodology will consist of stack gas sampling as specified in 40 CFR 60.46 (see § 52.1881(b)(2)), the monitoring and reporting requirements as specified in § 52.1882(d), and the emissions information (which include fuel sampling and analysis) as specified in the revised rule. Noncompliance by one method cannot be refuted by a showing of compliance with another method. Stack tests shall be conducted under such conditions as the Administrator shall specify, based on representative performance of the affected facility. The monitoring and reporting provisions of § 52.1882(d) require the company to (1) install not later than the compliance date a device to determine and record the time of operation of each point source, whose operation is limited by this regulation, (2) retain such records, and (3) report to the Administrator within 30 days of each occurrence of any period during which these sources operated in any combination not allowed by this regulation. The emissions information consists of daily fuel type, daily fuel sulfur content and heating value, calculated lbs/MMBTU and 1bs/hour for certain units. Notification and recordkeeping procedures shall be those prescribed in 40 CFR 60.7. LTV shall make available to the administrator such records as may be necessary.

The compliance test method and procedures used for determining compliance for all other sources in the county is the stack gas sampling, as specified in 40 CFR 60.46 (see U52.1881(b)(2)). Stack tests shall be conducted under such conditions as the Administrator shall specify, based on representative performance of the affected facility. Notification and recordkeeping procedures shall be those prescribed in 40 CFR 60.7. The owner or operator shall make available to the Administrator such records as may be necessary.

C. *Compliance Dates*—The revised emission limitations for E.I. DuPont, Medical Center, Reilly Tar and Chemical, and the shutdown sources receiving an emission limit of 0.0 lbs/MMBTU shall become effective on the date of promulgation of this action. The revised emission limitations for all sources of LTV Steel, except Boilers 26–34 and Coke Plant No. 2 Car Thaw shall become effective 6 months from the date of promulgation of this action. For Boilers 26–34 and Coke Plant No. 2 Car Thaw at LTV Steel, the emission limits

shall become effective according to the compliance schedule in § 52.1882(a). USEPA accepts the State's determination that this schedule provides for attainment as expeditiously as practicable.

Each of the changes USEPA is proposing today for 40 CFR 52.1881 is contained in the codification portion of this notice.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. This action requires only one plant (LTV–Cleveland) to make revisions in current operations.

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: April 26, 1990.

Frank M. Covington,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart KK—Ohio

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7462.

2. Section 52.1881 is amended by revising paragraph (b)(23) to read as follows:

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) * * *

(23) In Cuyahoga County, no owner or operator, unless otherwise specified in this subparagraph, shall cause or permit emission of sulfur dioxide from any stack in excess of the rates specified in paragraphs (b)(23) (i) and (ii) of this section.

(i) For fossil fuel-fired steam generating units between 10.0 MMBTU's per hour and 350 MMBTU's per hour total rated capacity of heat input, the emission rate in pounds of sulfur dioxide per million BTU of actual heat input shall be calculated by the following equation:

$$EL = 7.014\ Q_m^{-0.3014}$$

(ii) For fossil fuel-fired units equal to or greater than 350 MMBTU per hour total rated capacity, the emission shall not exceed a rate of 1.20 pounds of sulfur dioxide per MMBTU of actual heat input.

(ii) The "Mt. Sinai Hospital of Cleveland" or any subsequent owner or operator of the "Mt. Sinai Hospital of Cleveland" facility located at 1800 East 105th Street, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 through 3 to exceed a maximum of 0.00 pounds of sulfure dioxide per MMBTU actual heat input from each boiler.

(iv) The "E.I. DuPont de Nemours and Company" or any subsequent owner or operator of the "E.I. DuPont de Nemours and Company" facility located at 2981 Independence Road, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following source to exceed the amounts indicated:

(A) Sulfur burning contact process a maximum of 0.00 pounds of sulfur dioxide per ton of one hundred percent acid produced

(B) Boiler Number 18, shall only burn natural gas

(v) The "N.L. Industries Incorporated" or any subsequent owner or operator of the "N.L. Industries Incorporated" facility located at 2850 West Third, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Blast furnace process; a maximum of 0.00 pounds of sulfur dioxide per ton of metal charged.

(B) Reverb furnace process; a maximum of 0.00 pounds of sulfur dioxide per ton on metal charged.

(vi) The "Centerior Energy Corporation, Steam Heating Plant" or any subsequent owner or operator of the "Centerior Energy Corporation, Steam Heating Plant" facility located at 2274 Canal Road, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 34 through 38 to exceed a maximum of 1.38 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(vii) The "Centerior Energy Corporation, Steam Heating Plant" or any subsequent owner or operator of the "Centerior Energy Corporation, Steam Heating Plant" facility located a 1901 Hamilton Avenue, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 through 6 to exceed a maximum of 1.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(viii) The "Forest City Foundries" or any subsequent owner or operator of the "Forest City Foundries" facility located at 9401 Maywood Avenue, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Number 1 Cupola–North; a maximum of 0.00 pounds of sulfur dioxide per ton of metal charged.

(B) Number 2 Cupola–South a maximum of 0.00 pounds of sulfur dioxide per ton of metal charged.

(ix) The "Forest City Foundries" or any subsequent owner or operator of the "Forest City Foundries" facility located at 2500 West 27th Street, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Number 1 Cupola; a maximum of 0.00 pounds of sulfur dioxide per ton of metal charged.

(B) Number 2 Cupola; a maximum of 0.00 pounds of sulfur dioxide per ton of metal charged.

(x) The "Harshaw Chemical Company" or any subsequent owner or operator of the "Harshaw Chemical Company" facility located at 1000 Harvard Avenue, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Boiler numbers 7, 8 and 9; a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input.

(B) Process Buss System; a maximum of 0.00 pounds of sulfur dioxide per ton of acid produced.

(xi) The "T.R.W., Incorporated, Main Plant Works" or any subsequent owner or operator of the "T.R.W., Incorporated, Main Plant Works" facility located at 2196 Clarkwood Road, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Number 1 to exceed a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input.

(xii) The "NASA Lewis Research Center" or any subsequent owner or operator of the "NASA Lewis Research Center" facility located at 21000 Brookpark Road, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amount indicated:

(A) Boiler Numbers 1 and 2, a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(B) Boiler Numbers 4 and 5; a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xiii) The "Metal Blast, Incorporated" or any subsequent owner or operator of

the "Metal Blast, Incorporated" facility located at 871 East 67th Street, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the Whiting Model Number 7 Cupola to exceed a maximum of 0.00 pounds of sulfur dioxide per ton of metal charged.

(xiv) The "LTV Steel Company, Inc." or any subsequent owner or operator of the LTV Steel Company, Inc. facility located at 3100 East 45th Street, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the limitations indicated below and/or shall be restricted to specified fuel usages as indicated below:

(A) Boiler 234; Boiler 26; Boiler 27; Boiler 28; Boiler 29; Boiler 30; Boiler 31; Boiler 32; Boiler 33; Boiler 34; Stoves for Blast Furnaces C–1, C–2, C–3, C–4; 80" Hot Strip Mill Furnace 1, 2, 3; 84" Anneal Furnaces North and South; P Anneal Furnaces 1–4; and Coke Plant No. 2 Car Thaw: A maximum of 0.024 pounds of sulfur dioxide per MMBTU actual heat input from each stack, and each boiler is restricted to only burn natural gas and/or blast furnace gas.

(B) Boilers A, B and C: A maximum of 0.99 pounds of sulfur dioxide per MMBTU actual heat input from each boiler and 870 pounds of sulfur dioxide per hour (daily averaged) from all three boilers combined.

(C) Boiler D: A maximum of 2.45 pounds of sulfur dioxide per MMBTU actual heat input and 1056 pounds of sulfur dioxide per hour (daily average).

(D) Boilers A–D: A maximum of 1300 pounds of sulfur dioxide per hour (daily average).

(E) Boiler 1 and 2: A maximum of 1.64 pounds of sulfur dioxide per MMBTU of actual heat input and 315 pounds of sulfur dioxide per hour (daily average) from both boilers.

(F) Boiler 3: A maximum of 2.39 pounds of sulfur dioxide per MMBTU of actual heat input and 686 pounds of sulfur dioxide per hour (daily average).

(G) Boilers A–D, 1–3: A maximum of 2000 pounds of sulfur dioxide per hour (daily average).

(H) 84" Hot Strip Mill Furnaces 1, 2, and 3: A maximum of 1.34 pounds of sulfur dioxide per MMBTU of actual heat input from each furnace and 1386 pounds of sulfur dioxide per hour (daily average) from all three furnaces combined.

(I) Stoves of Blast Furnaces C–5 and C–6: A maximum of 0.15 pounds of sulfur dioxide per MMBTU of actual heat input.

(J) Coke Batteries 1, 2, 3 and 4 Underfiring; 44" Soaking Pits 2–8; 45" Soaking Pits 11–15; No. 2 BOF; Foundry; and Coke Plant No. 1 Car Thaw: A maximum of 0.10 pounds of sulfur dioxide per MMBTU actual heat input (20 grains or less of hydrogen sulfide per 100 cubic feet of coke oven gas at standard conditions) from each stack.

(K) Coke Batteries 6 and 7 Underfiring: A maximum of 1.98 pounds of sulfur dioxide per MMBTU of actual heat input (390 grains of hydrogen sulfide per 100 cubic feet of gas at standard conditions) from each stack.

(L) No. 2 Coke Plant: The maximum hourly amount of No. 2 Coke Plant coke oven gas shall be limited to 1,129,300 cubic feet per hour (daily average).

(M) Claus Incinerator: A maximum of 78 pounds of sulfur dioxide per hour.

(N) 10" Bar Mill; 12" Bar Mill; Open Hearth Pricipitator Units 111, 112; 98" Slab Mill, Units 1–5; Sinter Plant: A maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input.

(O) LTV Steel Company, Inc. shall collect and record the following information:

(*1*) Amount of individual coke oven gas from the No. 1 Coke Plant, coke oven gas from the No. 2 Coke Plant, blast furnace gas, fuel oil, coal, and natural gas used for each day at each facility listed in paragraph (b)(23)(xiv)(B) through (H), and (b)(23)(xiv)(L) of this section.

(*2*) Daily average sulfur content and heating value for coal and oil used during each calendar quarter, as determined in accordance with 40 CFR part 60, appendix A, Method 19, section 2, or equivalent methods approved by the Administrator.

(*3*) Daily average hydrogen sulfide content for coke oven gas used during each calendar quarter, as determined in accordance with 40 CFR part 60, appendix A, Method 11, or equivalent methods approved by the Administrator.

(*4*) Daily average sulfur content and heating value of blast furnace gas and natural gas shall be based upon testing performed once during each calender quarter.

(*5*) Calculated sulfur dioxide emissions in pounds per MMBTU and pounds per hour using the information in paragraphs (b)(23)(xiv)(O)(*1*) through (b)(23)(xiv)(O)(*4*) at the facilities listed in paragraphs (b)(23)(xiv)(B) through (b)(23)(xiv)(H) of this section for each day.

(P) Compliance with the provisions of paragraphs (b)(23)(xiv)(B) through (b)(23)(xiv)(H), and (b)(23)(xiv)(L) of this section shall be determined based on:

(*1*) Stack gas sampling, as specified in 40 CFR 60.46 (See § 52.1881 (b)(2)), and

(*2*) The information reported pursuant to paragraph (b)(23)(xiv)(O) of this section. Noncompliance by one of these methods cannot be refuted by a showing of compliance by the other method.

(Q) Compliance with the provisions of all other paragraphs shall be determined based on stack gas sampling, as specified in 40 CFR 60.46 (*See* § 52.1881(b)(2)).

(R) LTV Steel Company, Inc. shall submit a written report to the United States Environmental Protection Agency within 30 days after the end of each calendar quarter which contains a description of each day during which the recorded sulfur dioxide, hydrogen sulfide, or fuel exceeded the pounds of sulfur dioxide per MMBTU, pounds of sulfur dioxide per hour, grains of hydrogen sulfide per 100 cubic feet, or cubic feet of coke oven gas per hour limits listed in paragraphs (b)(23)(xiv)(B) through (b)(23)(xiv) (H), (L) of this section. For each instance in which the applicable limit was exceeded, the report shall provide:

(*1*) the date of each excursion,

(*2*) the magnitude of the excursion,

(*3*) a statement identifying the probable cause or causes of the excursion, and

(*4*) a description of any corrective actions taken to prevent or mitigate the excursion.

The report shall also address any periods of measurement (or recording) system malfunction and, if appropriate, shall state that there are no instances of any excursion during the reporting period.

(xv) The "Chemtron Corporation, Chemical Products Division" or any subsequent owner or operator of the "Chemtron Corporation, Chemical Products Division" facility located at 2910 Harvard Avenue, Cuyahoga Heights, Ohio shall not cause or permit the emissions of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Boiler Number 1; a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input.

(B) Process Number 1; a maximum of 0.00 pounds of sulfur dioxide per ton of actual process weight input.

(xvi) The "Aluminum Company of America" or any subsequent owner or operator of the "Aluminum Company of America" facility located at 1600 Harvard Avenue, Cuyahoga Heights, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 through 5 to exceed a maximum of 5.2 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xvii) The "Standard Oil Company (Ohio), Cleveland Asphalt Plant" or any

subsequent owner or operator of the "Standard Oil Company (Ohio), Cleveland Asphalt Plant" facility located at 2635 Broadway Avenue, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 7, 9, and 10 to exceed 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xviii) The "Fisher Body Division, General Motors Corporation" or any subsequent owner or operator of the "Fisher Body Division, General Motors Corporation" facility located at East 140th and Coit Roads, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 7, 8, and 9 to exceed a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xix) The "Polyclinic Hospital" or any subsequent owner or operator of the "Polyclinic Hospital" facility located at 6605 Carnette Avenue, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 and 2 to exceed a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xx) The "Independent Towel Supply Company" or any subsequent owner or operator of the "Independent Towel Supply Company" facility located at 1802 Central Avenue, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 and 3 to exceed 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxi) The "Medical Center Company" or any subsequent owner or operator of the "Medical Center Company" facility located at 2250 Circle Drive, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Boiler Numbers 1 and 2 shall only burn natural gas,

(B) Boiler Numbers 3, 4, 7, and 8 are limited to a maximum of 4.6 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxii) The "Hupp, Incorporated" or any subsequent owner of operator of the "Hupp, Incorporated" facility located at 1135 Ivanhoe Road, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 through 3 to exceed a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxiii) The "Cleveland Water Department, Division Pumping Station" or any subsequent owner or operator of the "Cleveland Water Department, Division Pumping Station" facility located at 1245 West 45th Street, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 through 6 to exceed 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxiv) The "Veterans Administration Hospital" or any subsequent owner or operator of the "Veterans Administration Hospital" facility located at 10000 Brecksville Road, Brecksville, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 through 3 to exceed a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxv) The "Ford Motor Company, Cleveland Engine Plant Number 2" or any subsequent owner operator of the "Ford Motor Company, Cleveland Engine Plant Number 2" facility located at 18300 Five Points Road, Brookpark, Ohio shall not cause or permit the emission of sulfur dioxide from Boilers Numbers 1 through 5 to exceed a maximum of 4.2 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxvi) The "Ford Motor Company, Cleveland Casting Plant" or any subsequent owner or operator of the "Ford Motor Company, Cleveland Casting Plant" facility located at 5600 Engle Road, Brookpart, Ohio shall not cause or permit the emission of sulfur dioxide from each of Numbers 1 through 7 Cupola to exceed a maximum of 6.00 pounds of sulfur dioxide per ton of actual process weight input.

(xxvii) The "Chase Bag Company" or any subsequent owner or operator of the "Chase Bag Company" facility located at 218 Cleveland Street, Chagrin Falls, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 and 2 to exceed a maximum of 4.2 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxviii) The "General Electric Power Plant" or any subsequent owner or operator of the "General Electric Power Plant" facility located at Nela Park, East Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 and 4 to exceed a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxix) The "General Electric Company" or any subsequent owner or operator of the "General Electric Company" or any subsequent owner or operator of the "General Electric Company" facility located at 21800 Tungsten Road, Euclid, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Boiler Number 1: a maximum of 1.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler,

(B) Boiler Number 4: a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxx) The "Addressograph Multigraph" or any subsequent owner or operator of the "Addressograph Multigraph" facility located at 1200 Babbitt Road, Euclid, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 1 through 3 to exceed a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxxi) The "Lincoln Electric Company" or any subsequent owner or operator of the "Lincoln Electric Company" facility located at 22810 St. Clair Avenue, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Numbers 2 through 4 to exceed a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxxii) The "Allied Chemical Corporation" or any subsequent owner or operator of the "Allied Chemical Corporation" facility located at 5000 Warner Road, Garfield Heights, Ohio shall not cause or permit the emission or sulfur dioxide from the following sources to exceed the amounts indicated.

(A) Number 5 Unit Sulfuric Acid; a maximum of 0.00 pounds of sulfur dioxide per ton of one hundred percent acid produced.

(B) Number 6 Unit Sulfuric Acid; a maximum of 0.00 pounds of sulfur dioxide per ton of one hundred percent acid produced.

(xxxiii) The "Lear Siegler, Incorporated" or any subsequent owner or operator of the "Lear Siegler, Incorporated" facility located at 17600 Broadway, Maple Heights, Ohio shall not cause or permit the emission of sulfur dioxide from Boiler Number 1 to exceed a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input.

(xxxiv) The "Chevrolet Motor Division" or any subsequent owner or operator of the "Chevrolet Motor Division" facility located at Stumph Road and Brookpark, Parma, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Boiler Numbers 1 and 2; a maximum of 1.55 pounds of sulfur

dioxide per MMBTU actual heat input from each boiler.

(B) Boiler Numbers 3 and 4; a maximum of 1.8 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxxv) The "Ford Motor Company, Cleveland Stamping Plant" or any subsequent owner or operator of the "Ford Motor Company, Cleveland Stamping Plant" facility located at 7845 Northfield Road, Walton Hills, Ohio shall not cause or permit the emission of sulfur dioxide from Boilers Numbers 1 through 3 to exceed a maximum of 1.2 MMBTU actual heat input from each boiler.

(xxxvi) The "Highland View Cuyahoga County Hospital" or any subsequent owner or operator of the "Highland View Cuyahoga County Hospital" facility located at 3901 Ireland Drive, Warrensville Township, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Boiler Numbers 1 and 3; a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(B) Boiler Numbers 2 and 4; a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xxxvii) The "Centerior Energy Corporation, Lake Shore Plant" or any subsequent owner or operator of the "Centerior Energy Corporation, Lake Shore Plant" facility located at 6800 South Marginal Drive, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Boiler Numbers 91 through 94; a maximum of 1.90 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(B) Boiler Number 18; a maximum of 1.30 pounds of sulfur dioxide per MMBTU actual heat input.

(xxxviii) The "City of Cleveland, Division of Light and Power, Lake Road Generating Station" or any subsequent owner or operator of the "City of Cleveland, Division of Light and Power, Lake Road Generating Station" facility located at 5251 North Marginal Road, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amount indicated:

(A) Boiler Number 6; a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input.

(B) Boiler Numbers 3, 4, and 5; a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input.

(xxxix) The "United States Steel Corporation, Cuyahoga Works" or any subsequent owner or operator of the "United States Steel Corporation, Cuyahoga Works" facility located at 4300 East 49th Street, Cuyahoga Heights, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Boiler Numbers 1 and 2; a maximum of 0.5 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(B) Boiler Numbers 3 through 7; a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(xl) The "City of Euclid Incinerator" or any subsequent owner or operator of the "City of Euclid Incinerator" located at 2700 Lakeland Boulevard, Euclid, Ohio shall not cause or permit the emission of sulfur dioxide from incinerator numbers 1 and 2 to exceed a maximum of 0.00 pounds of sulfur dioxide per ton of material burned from each incinerator.

(xli) The "Lakewood Incinerator" or any subsequent owner or operator of the "Lakewood Incinerator" facility located at 12920 Berea Road, Lakewood, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Furnace Numbers 1 through 4; a maximum of 0.00 pounds of sulfur dioxide per ton of material burned from each furnace.

(B) Brush burner; a maximum of 0.00 pounds of sulfur dioxide per ton of material burned.

(xlii) The "United States Steel Corporation, Lorain-Cuyahoga Works" or any subsequent owner or operator of the "United States Steel Corporation, Lorain-Cuyahoga Works" facility located at 2650 Broadway Avenue, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Boiler Numbers 1 through 6; a maximum of 0.00 pounds of sulfur dioxide per MMBTU actual heat input from each boiler.

(B) Blast Furnace Numbers D–6 and A; a maximum of 0.00 pounds of sulfur dioxide per ton of iron produced.

(xliii) The "Reilly Tar and Chemical Corporation" or any subsequent owner or operator of the "Reilly Tar and Chemical Corporation" facility located at 3201 Independence Road, Cleveland, Ohio shall not cause or permit the emission of sulfur dioxide from the following sources to exceed the amounts indicated:

(A) Still Numbers 3 through 7; shall only burn natural gas.

§ 52.1882 [Amended]

3. Section 52.1882 is amended by adding new paragraph (l) to read as follows:

(l) The Federal compliance schedule for the LTV Steel Company, Inc. in Cuyahoga County is as follows:

(1) 6 months from the date of promulgation—Achieve final compliance with § 52.1881(b) for all sources except Boilers 26–34, and Coke Plant No. 2 Car Thaw.

(2) Achieve final compliance with § 52.1881(b) for Boilers 26–34, and Coke Plant No. 2 Car Thaw according to § 52.1882(a).

[FR Doc. 90–12975 Filed 6–8–90; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 90–258; FCC 90–188]

Limited Transfers and Assignments of Applications in Rural Service Areas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Notice of Proposed Rulemaking, the Commission proposes to revise § 22.922 of the Commission's rules which currently prohibit the sale, transfer, assignment or other alienation of any cellular application to offer service to Rural Service Areas (RSAs) prior to the grant of a construction authorization. Specifically, the proposed rule excludes wireline carriers from this rule and amends § 22.922 to exempt from this prohibition transfers involving non-wireline carriers which occur under certain specific circumstances.

The original intent of § 22.922 was to prevent alienation of interests in cellular applications prior to the granting of authorizations in order to eliminate unnecessary delays in the provision of cellular service to the public. However, rather than improve the orderly processing of applications, the overbreadth of the rule has resulted in the need for ever increasing numbers of waiver requests. This increasing number of waiver requests has put an additional burden on the Commission's limited resources, which in turn impedes its efforts to expedite the provision of service to the public.

The proposed rule will eliminate piecemeal decisions on a waiver request

basis and will remedy the adverse effects of this ad hoc decision-making process, including delays in service to the public, by excluding business transactions which should never have been included in the rule in the first place.

DATES: Comments must be filed by July 23, 1990. Reply comments are due by August 7, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Linda Dubroof, Mobile Services Division, Common Carrier Bureau (202) 632-6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, in CC Docket No. 89-258, adopted May 4, 1990 and released May 30, 1990.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 22

Communications, Common carriers, Rural areas.

Proposed Rule

Part 22 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 22—[AMENDED]

1. The authority citation for part 22 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 22.922 is revised to read as follows:

§ 22.922 Transfers and assignments of applications, permits or licenses in Rural Service Areas.

Notwithstanding any other sections of this part, the transfer of any cellular non-wireline application to offer service in Rural Service Areas is prohibited prior to the grant of a construction authorization. The term transfer is defined as a sale, assignment, placement of equity or convertible debt or grant of an option in the application. The following are exceptions to this rule:

(a) The transfer is necessary to raise capital, including the placement of debt or equity, to finance a *bona fide* business need of the applicant or an affiliated company not relating to the RSA application or financing thereof;

(b) The transfer is part of a *bona fide* sale of an on-going business to which the cellular applications are merely adjunct or incidental;

(c) The transfer is required by a court-ordered decree granting a divorce or enforcing a spousal separation agreement;

(d) The transfer is necessitated by the death of the applicant;

(e) The transfer involves the routine trading of shares of a publicly traded corporation which does not constitute a transfer of control of the applicant;.

(f) The transfer is a *pro forma* transfer of control from an applicant not involving a change in ownership interests;

(g) The transfer involves only the alienation of an interest by an existing partner in a partnership which owns an application to another existing partner in the same partnership or between existing shareholders in a closely-held corporation and does not effect a transfer of control of the application;

(h) The transfer is a result of the alienation or exercise of stock warrants or stock options where the issuance of the warrants or options preceeded the filing of the RSA application.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-13448 Filed 6-8-90; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 43

[CC Docket No. 79-105, FCC 90-207]

Common Carrier Services; Detariffing the Installation and Maintenance of Inside Wiring

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action inititates proceedings in response to *National Association of Regulatory Utility Commissioners* v. *FCC*, 880 F.2d 422 (D.C. Cir. 1989). The FCC tentatively concludes that it should preempt State regulation that requires or allows telephone companies to bundle charges for simple inside wiring services with charges for tariffed services, that it need not preempt State regulation that requires telephone companies to act as providers of last resort for inside wiring services, and that it should monitor, but not at this time preempt, State actions in relations to the prices and terms and conditions of service under which telephone companies provide inside wiring services. The FCC proposes to require each local exchange carrier having annual operating revenues of $100 million or more to file, on an on-going basis, information on any State regulation of inside wiring prices. The FCC also proposes to require telephone companies to classify their inside wiring services as nonregulated activities for Federal accounting purposes on a permanent basis.

DATES: Comments on the FCC's specific proposals may be filed on or before July 20, 1990. Reply comments may be filed on or before August 17, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William A. Kehoe III, telephone (202) 632-7500.

SUPPLEMENTARY INFORMATION: The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of the the subscription may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should direct their comments to Eyvette Flynn, (202) 395-3785, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any comments should also be sent to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632-7513.

OMB Number: None.

Title: Detariffing the Installation and Maintenance of Inside Wiring Services; Reports on State Regulatory Activities (CC Docket No. 79-105).

Action: Proposed New Collection.

Respondents: Businesses or other for profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 68 responses; 136 hours total; 2 hours average burden per response.

Needs and Uses: The proposed information collection is required for the FCC to monitor the activities of State agencies that desire to impose price regulation for inside wiring services provided by telephone companies. The information is required to ensure that such actions do not impede Federal policies.

Summary of Second Further Notice

This is a summary of the FCC's *Second Further Notice of Proposed Rulemaking*, Detariffing the Installation and Maintenance of Inside Wiring, CC Docket 79–105, FCC 90–207, adopted May 29, 1990, and released May 31, 1990. The full text of the FCC's decision is available for inspection and copying during normal business hours in the FCC Dockets Branch, room 230, 1919 M Street NW., Washington, DC. The complete text of this decision will be published in the *FCC Record* and may also be purchased from the FCC's copy contractor, International Transcription Services, 2100 M Street NW., suite 140, Washington, DC 20037, (202) 857–3800.

In *National Association of Regulatory Utility Commissioners* v. *FCC*, 880 F.2d 422 (D.C. Cir. 1989) (*NARUC* v. *FCC*), the United States Court of Appeals for the District of Columbia Circuit reviewed three orders in which the FCC addressed preemption questions relating to the installation and maintenance of inside wiring. The first of these orders, the *Second Report and Order* in CC Docket 79–105 (51 FR 8498, March 12, 1986), preempted the States from imposing common carrier regulation on the installation and maintenance of inside wiring after December 31, 1986. The ensuing *Reconsideration Order* and *Further Reconsideration Order* in the same Docket affirmed and reaffirmed that preemptive action.

In *NARUC* v. *FCC*, the D.C. Circuit held that the FCC may preempt State regulation of inside wiring services when State regulation would impede achievement of a valid Federal policy. The Court concluded, however, that the FCC had failed to show that it was necessary to preempt all State regulation of simple inside wiring services to achieve its objectives. The Court remanded the case to the FCC for further proceedings.

The *Second Further Notice* initiates the proceedings on remand. The *Second Further Notice* tentatively concludes that the FCC should preempt State regulation that requires or allows telephone companies to bundle charges for simple inside wiring services with charges for tariffed services. It also tentatively concludes that the FCC need not preempt State regulation that requires telephone companies to act as providers of last resort for inside wiring services.

The *Second Further Notice* reiterates the FCC's commitment to the development of an increasingly competitive market for the installation and maintenance of inside wiring. It states that the FCC continues to adhere to the policy that a deregulated environment will promote competition in that market and will benefit consumers by reducing the total amount they pay to obtain communications services and by increasing their communications options. In the interest of comity with the States, the *Second Further Notice* states that the FCC will monitor any State actions in relation to the prices and terms and conditions of service under which telephone companies provide inside wiring services, rather than propose to preempt such action at this time. To effectuate the monitoring process, the *Second Further Notice* proposes to require each local exchange carrier having annual operating revenues of $100 million or more to file, on an on-going basis, information on any State regulation of inside wiring prices.

The *Second Further Notice* also proposes to require telephone companies to classify their inside wiring services as nonregulated activities for Federal accounting purposes on a permanent basis. Under this proposal, the States would remain free to employ different cost allocation methods in intrastate ratemaking, and to mandate that carriers keep any side records required for the States' regulatory purposes.

The FCC certified in the *Second Further Notice* that the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1982), is not applicable to the changes being proposed in this proceeding. Those changes would apply to the inside wiring operations of local exchange carriers (LECs) that have dominant positions in their local service areas. These LECs are not "small entit[ies]" within the meaning of the Regulatory Flexibility Act, which incorporates the definition of a "small business" in Section 3 of the Small Business Act as a definition of "small entity." 15 U.S.C. 633. In accordance with Section 605 of the Regulatory Flexibility Act, 5 U.S.C. § 605, a copy of the certification is being sent to the Chief Counsel for Advocacy of the Small Business Administration.

The proposals made in the *Second Further Notice* were analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–20, and were found to propose a new or modified information collection requirement on the public. The FCC stated that implementation of any new or modified information collection requirement would be subject to approval by the Office of Management and Budget as prescribed in that Act.

Ordering Clauses

1. Accordingly, *It Is Ordered*, That pursuant to sections 1, 4(i), 4(j), 201–205, 218–220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–05, 218–20, and 403, and section 553 of the Administration Procedure Act, 5 U.S.C. 553, notice is hereby given of the proposed policies and rule discussed in this second further notice. We hereby give notice that in reaching our decisions in this proceeding we will not necessarily be limited to the comments and reply comments that may be filed, and that we may utilize other information, analyses, and reports, provided that in each such case a copy of the material relied upon will be associated with the record of this proceeding.

2. *It is Further Ordered*, That interested persons may file comments on the specific proposals discussed in this Second Further Notice of Proposed Rulemaking on or before July 20, 1990. Reply comments shall be filed on or before August 17, 1990. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the comments will be available for public inspection in the Commission's Docket Reference Room, 1919 M Street NW., Washington, DC.

3. *It Is Further Ordered*, That the Secretary shall serve copy of this Second Further Notice of Proposed Rulemaking on state regulatory commissions.

List of Subjects in 47 CFR Part 43

Reports on inside wiring services.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rules Section

Part 43 of title 47 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 43—REPORTS OF COMMUNICATIONS COMMON CARRIERS AND CERTAIN AFFILIATES

1. The authority citation for part 43 is proposed to be revised to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 220, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Section 43.41 is added as follows:

§ 43.41 Reports on inside Wiring Services.

Each local exchange carrier with annual operating revenues of $100 million or more shall file, within thirty (30) days of its release, a copy of any state or local statute, rule, order, or other document that regulates, or proposes to regulate, the price or prices the local exchange carrier charges for inside wiring services.

[FR Doc. 90-13397 Filed 6-8-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-281; RM-7322]

Television Broadcasting Services; Jasper and Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Channel 17 Associates Ltd., licensee of UHF Television Station WDBB(TV), Channel 17, Tuscaloosa, Alabama, proposing to amend the Television Table of Allotments, section 73.606(b) of the Commission's rules, by changing the community of license of Channel 17 from Tuscaloosa to Jasper, Alabama, and to modify Channel 17's license accordingly, in order to provide Jasper with its first local television transmission service. The site coordinates for Station WDBB(TV)'s transmitter will remain as 33-28-51 and 87-24-03.

DATES: Comments must be filed on or before July 30, 1990, and reply comments on or before August 14, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Howard M. Weiss and Mark N. Lipp, Mullin, Rhyne, Emmons and Topel, P.C., 1000 Connecticut Avenue, suite 500, Washington, DC 20036 (counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-281, adopted May 14, 1990, and released June 6, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-13447 Filed 6-8-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 264 and 269

[Docket No. 900375-0075]

United States Standards for Grades of Frozen Fish Portions

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule with request for comments.

SUMMARY: NOAA is proposing to revise the U.S. Standards for Grades of Frozen Fish Portions used in NMFS's National Seafood Inspection Program (Program); comments are invited. NOAA is also requesting comments on the possible integration of limiting rules, maximum allowable variations, or other similar methods of determining lot acceptance for the percent fish flesh grade criteria. Participation in the Program by industry members is voluntary. The intended effect is to propose to update the Standards for Grades to reflect such things as technical advances in fish processing equipment, increased industry size, a larger number of processed species, at-sea processing, and the Codex Alimentarius Commission standard for Quick Frozen Fish Sticks and Portions (Fish Fingers).

DATES: Comments must be received on or before August 27, 1990.

ADDRESSES: Comments should be sent to Thomas J. Moreau, Deputy Director, Technical Services Unit, Inspection Services Division, F/TS45, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Earl C. Johnston, Chief, Standards and Specification Branch, 508-281-9219.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Standards for Grades of Frozen Fish Portions (50 CFR part 264, subparts C through G) provide a system for Federal and state inspectors to classify frozen fish portions by quality into U.S. Grade Categories (*i.e.*, grades A, B, and C) and allow identification of a product quality level for the benefit of the consumer and the industry. These standards are used by inspectors in NMFS's National Seafood Inspection Program. Industry participation in the program is voluntary. The quality Standards for Grades that currently constitute subparts C, D, E, F, and G of 50 CFR part 264 were developed in the 1950's and 1960's. Since then, numerous technological advancements and changes have occurred in the fish processing industry. Among these are:

1. Technological advancements in the equipment used by the fish processing industry.

2. Development of an international Codex Alimentarius Commission standard for Quick Frozen Fish Sticks and Fish Portions (Fish Fingers) (ALINORM 89/18 appendix III).

3. Increasing variety of species being processed into frozen fish portions.

4. Advancements made in the quality of raw material (frozen fish blocks) utilized by the fish portion industry.

5. Development of new product forms of fish portions.

These advances and changes prompted industry members to seek revision of the standards. The proposed revised Standards for Frozen Fish Portions were developed during Technical Working Group meetings with participation from industry and user groups. Before a decision was made to propose them, the revised standards were applied to more than 3,000 samples and the results were examined and evaluated. The major proposed changes to the current standards are:

1. *Scope and product description.* Currently there are five Standards for

Grades in 50 CFR part 264 that cover frozen fish portions: Frozen Raw Fish Portions (subpart C), Frozen Raw Breaded Fish Sticks (subpart D), Frozen Raw Breaded Fish Portions (subpart E), Frozen Fried Fish Sticks (subpart F), and Frozen Fried Fish Portions (subpart G). The proposed Standards for Grades (new 50 CFR part 269) would consolidate these standards and broaden the scope and product description to include more recently developed products that have gained wide consumer acceptance, such as batter dipped portions and fish nuggets.

2. *Product forms and composition.* Product forms described as "fried" in the current Standards for Grades (§§ 264.351 and 264.401) are now described as "precooked".

3. *Minimum fish flesh content.* The Association of Official Analytical Chemists (AOAC) end-product method of flesh determination as it appears in the current Standards for Grades §§ 264.271(f), 264.321(f), 264.371(f), and 264.421(f) was studied collaboratively with the U.S. Food and Drug Administration (FDA). The results of this study were published in an article entitled "Collaborative Study of a Method for Determining the Fish Flesh Content of Frozen Breaded Fish Products" in the Journal of the AOAC (Vol. 54, No. 3) in 1971. In that article, "within samples" and "among collaborators" measures of variability were reported. Based on these measures of variability and by using the Statistical Manual of the AOAC, a 2 percent flesh tolerance has been added in the proposed Standards for Grades in § 269.107(a). This tolerance has been included to offset inherent variability (i.e., variability experienced by an individual inspector) and inspector-to-inspector variability when applying the method. In this context, inherent variability is equated to within-samples variability and inspector-to-inspector variability is analogous to among-collaborators variability. By adding 2 percent to the value obtained by the method, there is approximately a 95 percent chance that the actual means percent flesh has not been underestimated.

4. *Viscera, roe and lace.* These defects do not appear in the current Standards for Grades. These defects have been incorporated into the proposed Standards for Grades (§ 269.104(d)(12(iv)) because the flatfish species that exhibit these defects are now being processed into fish portions in greater quantities.

5. *Bones.* In response to comments and concerns expressed by consumers, this defect in the proposed Standards for Grades (§ 269.104(d)(15)) has been redefined into measurable quantitites. The measurements are based on those developed by the international Codex Alimentarius Commission's Standard for Quick Frozen Fish Sticks and Fish Portions (Fish Fingers) (ALINORM 89/18 appendix III). The defect in the current Standards for Grades (§§ 264.221(c)(2), 264.271(d)(4), 264.321(d)(4), 264.371(d)(5), and 264.421(d)(5)) is based on a subjective interpretation of the definition of a "potentially harmful" bone.

6. *Fins or part fins.* This defect does not appear in the current Standards for Grades. This defect was incorporated into the proposed Standards for Grades (§ 269.104(d)(16)) because of its natural resemblance to bones. It is defined and points are assessed the same as for the bone defect in § 269.104(d)(15).

7. *Parasites.* This defect does not appear in the current Standards for Grades. In response to consumer concerns and comments, it has been incorporated into these proposed Standards for Grades (§ 269.104(d)(13)) and covers metazoan parasites and parasitic copepods.

8. *Determination of grade.* The current Standards for Grades (§§ 264.211(a), 264.261(a), 264.311(a), 264.361(a), and 264.411(a)) have a maximum score of 100 and a minimum score of 0. The proposed Standards for Grades (§ 269.104(e)) are based on a perfect score of 0 (no physical defects).

The proposed revisions should facilitate trade in frozen fish portions and allow consumers to select and purchase a greater variety of fish products on the basis of identified quality.

NOAA is also considering changing the method of determining lot acceptance for the percent fish flesh requirement. The purpose of such a change would be to better assure that all portions of a lot contain the required fish flesh content. The lot acceptance for fish flesh percentage in the current grade standards is based on the average fish flesh percentage of the lot. However, this method permits wide variations in the fish flesh content of portions within a lot. Methods under consideration include the use of a limiting rule, maximum allowable variations, and similar techniques that would incorporate statistically sound methods into the standards. In response to consumer and industry concerns regarding this standard, NOAA is requesting comments on the above-mentioned approaches, or other methods that may be considered.

Interested persons are invited to submit written comments, suggestions or objections to these proposed Standards for Grades (see ADDRESSES). The comments will be reviewed and changes will be made to the proposed standards, if necessary.

Classification

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02–10.

The Under Secretary for Oceans and Atmosphere has determined that this proposed rule is not a "major rule" requiring preparation of a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted as proposed, will not have an effect on the economy of $100 million or more; will not cause a major increase in costs or prices; and will not have a significant adverse effect on competition, employment, investment, productivity or innovation.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This proposed rule is expected to facilitate grading and trade in frozen fish portions, while not impoving any new costs on industry. As a result, a Regulatory Flexibility Analysis was not prepared.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implication sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Parts 264 and 269

Food grades and standards, Frozen foods, Seafood.

Dated: June 1, 1990.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR chapter II is proposed to be amended as follows:

PART 264—[Amended]

1. The authority citation for part 264 is revised to read as follows:

Authority: 7 U.S.C. 1621–1630; Reorganization Plan No. 4 of 1970 (84 Stat. 2090).

2. The part heading of part 264 is revised to read as follows:

PART 264—UNITED STATES STANDARDS FOR GRADES OF FROZEN FISH BLOCKS

1. Part 264 is amended by removing subpart C, consisting of §§ 264.201 through 264.225; subpart D, consisting of §§ 264.251 through 264.275; subpart E, consisting of §§ 264.301 through 264.325; subpart F, consisting of §§ 264.351 through 264.375; and subpart G, consisting of §§ 264.401 through 264.425 in their entirety.

4. A new part 269 is added to read as follows:

PART 269—UNITED STATES STANDARDS FOR GRADES OF FROZEN FISH PORTIONS

Sec.
269.101 Scope and product description.
269.102 Product forms and composition.
269.103 Grades.
269.104 Grade determination.
269.105 Tolerances for lot certification.
269.106 Hygiene.
269.107 Methods of analysis.
Tables to Part 269.

Authority: 7 U.S.C. 1621–1630; Reorganization Plan No. 4 of 1970 (84 Stat. 2090).

§ 269.101 Scope and product description.

(a) Fish portions consist of a fish core and may or may not include a coating. The fish core may be formed from either frozen or unfrozen fish flesh and is prepared to achieve the desired final shape.

(b) Products covered by these Standards for Grades contain a single species of fish and, with the exception of *Sebastes* species, are prepared from skinless fish flesh. For *Sebastes* species, these products may be prepared from skin-on fillets and shall be conspicuously labeled as having been made from skin-on fillets.

(c) Products covered by these Standards for Grades need not be described as fish portions, so long as the declaration is adequate, informative and not misleading according to the provisions of the Federal Food, Drug and Cosmetic Act, as amended.

(d) These Standards for Grades include products made from natural fish fillets or sections (pieces) of such fillets, or both, that have been previously cut and shaped or formed into masses of cohering fish flesh. The contents of a package containing these products may be uniform or intentionally non-uniform in shape or size.

(e) These Standards for Grades do not apply to fish cores that have been made from fish blocks made by restructuring (reworking) pieces of fish blocks into the shape of a fish block.

(f) These Standards for Grades are implemented in accordance with guidance set forth in part II of NOAA Handbook 25, "Inspector's Instructions for Grading Frozen Fish Portions." Copies of the handbook may be obtained from the National Seafood Inspection Laboratory, NMFS, NOAA, P.O. Drawer 1207–3209, Frederic Street, Pascaguola, MS 39568–1207.

§ 269.102 Product forms and composition.

(a) *Types.* (1) Fish portions weighing up to and including 1.5 oz. (42.52 g).

(2) Fish portions weighing more than 1.5 oz. (42.52 g).

(b) *Product forms—(1)* Raw, uncoated.

(2) Raw, coated, breaded.

(3) Precooked (partially cooked), coated, breaded.

(4) Precooked (partially cooked), coated, in-batter (batter dipped).

(c) *Composition.* (1) When coating is present, minimum amounts of fish core for each form of product are:

Product form	Product weighing up to and including 1.5 oz. (42.52 g)	Product weighing more than 1.5 oz. (42.52 g)
Raw, breaded.	72 percent	75 percent.
Precooked, breaded.	60 percent	65 percent.
Precooked, in-batter (batter-dipped)	50 percent	50 percent.

(2) In products with coating present, fish core content will be determined only by an officially approved method (see § 269.107). Three fish portions will be used for each determination.

§ 269.103 Grades.

(a) U.S. Grade A fish portions will possess good flavor and odor characteristics and comply with the limits for defects for U.S. Grade A quality in accordance with § 269.104.

(b) U.S. Grade B fish portions will possess reasonably good flavor and odor characteristics and comply with the limits for defects for U.S. Grade B quality in accordance with § 269.104.

(c) U.S. Grade C fish portions will possess reasonably good flavor and odor characteristics and comply with the limits for defects for U.S. Grade C quality in accordance with § 269.104.

§ 269.104 Grade determination.

(a) *Procedures for grade determination.* The grade shall be determined by evaluating a product in the frozen and cooked states according to applicable paragraphs of this section.

(b) *Sampling.* (1) Sampling shall be done in accordance with the regulations governing processed fishery products contained in § 260.61, Tables II, V, or VI, where applicable, of this subchapter.

(2) For examination of physical defects and sensory evaluation, a sample unit shall be ten fish portions taken at random from one or more packages, as required.

(3) For determination of fish core content, a sample unit shall be an additional three fish portions taken at random from one or more packages, as required.

(c) *Definitions for evaluation of flavor and odor.* (1) Good flavor and odor are essential requirements for a U.S. Grade A product. The cooked product, including the coating, must have good overall flavor and odor characteristics. Specifically, the fish core must have the flavor and odor characteristics of the indicated species of fish and it must be free from staleness, bitterness, rancidity, and other off-flavors and off-odors of any kind.

(2) Reasonably good flavor and odor are minimum requirements for a U.S. Grade B and a U.S. Grade C product. The cooked product, including the coating, must have reasonably good overall flavor and odor characteristics. Specifically, the fish core of the cooked product is lacking good flavor and odor characteristics of the indicated species but it is free from objectionable off-flavor and off-odors of any kind.

(d) *Definitions of defects.* For examination of physical defects, each sample unit is examined according to the definition given below and in Table 1 or Table 2 of this part. Examination is performed in the frozen state for defects numbered 1 to 8. Examination is performed in the cooked state for defects numbered 9 to 11 for coated products only and in the cooked state for defects numbered 12 to 17 for all products.

(1) *Condition of the package (coated products only).* This defect refers to an overall assessment for the presence of one or more of the following defects: Loose batter or breading material inside a package; an accumulation of frost on the inner walls of a package or on the product; or perceptible amounts of oil that have stained the inside of, or have soaked through, a package. Each of these kinds of defects is counted as one instance. If a sample unit contains more than one package, divide the total number of instances found by the number of packages before using Table 1 of this part.

(i) *Slight.* One instance refers to:

(A) More than 0.75 but less than 1.5 grams per pound (more than 1.67 grams but less than 3.33 grams per kilogram) of declared net contents is loose batter or breading; or

(B) More than 0.75 but less than 1.5 grams per pound (more than 1.67 grams but less than 3.33 grams per kilogram) of declared net contents is accumulated frost; or

(C) Any perceptible amount of oil staining only the inside package.

(ii) *Moderate.* One instance refers to:

(A) One and one-half grams per pound (3.33 grams per kilogram) or more of declared net contents is loose batter or breading; or

(B) One and one-half grams per pound (0.45 kg) or more of declared net contents is accumulated frost; or

(C) Any perceptible amount of oil that has soaked through the package.

(2) *Ease of separation.* Upon removal from a package, fish portions should separate readily from each other and from packaging material. Each fish portion affected is an instance.

(i) *Slight.* The fish portions in a package require strong hand pressure to be separated from each other or from packaging material.

(ii) *Moderate.* The fish portions in a package require use of a knife or similar instrument for separation from each other or from packaging material.

(3) *Broken.* A fish portion that has been separated into two or more pieces. Each fish portion that is broken is an instance.

(4) *Damaged (other than broken)* refers to each fish portion that has been physically or mechanically injured, mashed, misshaped or mutilated to the extent that its appearance is materially affected. Where damage has occurred, the fish core may be cut or exposed or the coating may have an abnormal depression because the fish core was cut or damaged before the coating was applied. Areas of damage are measured by placing a plastic grid marked off in ¼-in. (0.64-cm) squares (0.625 $in.^2$) (0.40 cm^2) over each defect area. Each full or fractional square is an instance. An area of damage less than 0.625 $in.^2$ (0.40 cm^2) is not an instance.

(i) *Slight.* One to five instances.

(ii) *Moderate.* More than five instances.

(5) *Uniformity of weight* refers to the degree of uniformity of the weights of the fish portions in a sample unit. (This definition is not applicable to package contents that have intentionally non-uniform declared weights.) The weight ratio is the weight of the two heaviest fish portions divided by the weight of the two lightest fish portions.

(i) *Slight.* Weight ratio is 1.20 or more, but not more than 1.30.

(ii) *Moderate.* Weight ratio is greater than 1.30, but not more than 1.40.

(iii) *Excessive.* Weight ratio is greater than 1.40.

(6) *Uniformity of size* refers to the degree of uniformity of the sizes of the fish portions in a sample unit. (This definition is not applicable to package contents that have intentionally non-uniform declared sizes.) Size uniformity is based on the longest dimension ("length") or the second longest dimension ("width") of the two largest and the two smallest fish portions.

(i) *Moderate.* One-quarter inch (0.64 cm) up to and including ½ inc. (1.27 cm).

(ii) *Excessive.* More than ½ in. (1.27 cm).

(7) *Voids (uncoated products only)* refer to holes, spaces, or depressions in the fish flesh. Instances of voids refer to each occurrence measured by placing a plastic grid marked off in ¼-in. (0.64-cm) squares and at least ⅛ in. (0.32 cm) in depth over the affected area. Each square is counted as one, whether it is full or fractional. No deductions are made for voids of less than ¼ × ¼ in. (0.64 × 0.64 cm).

(i) *Slight.* One to five instances on each portion affected.

(ii) *Moderate.* More than five instances on each portion affected.

(8) *Dehydration (uncoated products only)* refers to the presence of dehydrated (water-removed) tissue in the portions. *Slight dehydration* is surface dehydration that is not color masking. *Deep dehydration* is color masking and cannot be removed by scraping with a blunt instrument.

(i) *Moderate.* Easily scraped off from each portion affected.

(ii) *Excessive.* Deep dehydration not easily scraped off and affecting more than 10 percent of surface area of each portion affected.

(9) *Distortion (coated products only)* includes bending or bowing, twisting, and shrinkage, in relation to the longest axis of fish portions.

(i) *Slight.* Bending, shrinking or twisting at least ¼ in. (0.64 cm) up to and including ½ in. (1.27 cm).

(ii) *Moderate.* Bending, shrinking or twisting greater than ½ in. (1.27 cm).

(10) *Coating defects (coated products only)* include the presence of irregular areas in the coating or non-uniform color of fish portions. Since coating defects are not uniformly distributed among the contents, their presence indicates a lack of good workmanship. They should not be confused with a deliberate attempt to create a rough appearance on the surface of fish portions when this appearance appears uniformly in the contents of a package. Instances of these defects are measured by a plastic grid marked off in ¼-in. (0.64-cm) squares ($\frac{1}{16}$ $in.^2$) (0.41 cm^2). Each full or fractional square is an instance. The color (appearance) of individual units can vary from off-white to a rich, deep brown color, but it should be uniform in a given sample unit. Each fish portion affected is an instance whether the surface is completely or partially disclored.

(i) For fish portions weighing 1.5 oz. (42.52 g) or less, breaded or in batter (batter-dipped):

(A) *Slight.* One to three instances.

(B) *Moderate.* More than three instances.

(ii) For fish portions weighing more than 1.5 oz. (42.52 g), breaded or in-batter (batter-dipped):

(A) *Slight.* One to six instances.

(B) *Moderate.* More than six instances.

(11) *Texture of the coating (coated products only)* refers to the absence of the normal textural properties of the cooked coating. Coating texture defects include dryness, sogginess, mushiness, doughiness, toughness, pastiness, oiliness or mealiness.

(i) *Moderate.* The texture of the coating is distinctly abnormal but not completely objectionable.

(ii) *Excessive.* The texture of the coating is distinctly and completely objectionable.

(12) *Blemishes.* This defect includes the blemishes listed in paragraphs (d)(12)(i) through (vii) of this section and other objectionable blemishes in or on the fish core. Areas of blemishes are measured by placing a plastic grid marked off in ¼-in. (0.64-cm) squares ($\frac{1}{16}$ $in.^2$) (0.41 cm^2) over each defect area. Each full or fractional square is an instance.

(i) *Blood spots.* Each lump or clotted mass is an area of blemish.

(ii) *Bruises.* Include distinct, unnatural (dark), reddish, grayish, or brownish off-colored areas of blemish due to diffused blood.

(iii) *Discoloration.* Color refers to reasonably uniform color characteristics of the species used. Deviations from normal color include areas of blemish due to melanin deposits, yellowing, rusting or other kinds of discoloration of the fish flesh.

(iv) *Viscera, roe and lace.* Viscera and roe include any portion of the internal organs. Laces (frills) are pieces of tissue that were originally adhering to the edge of flatfish (Order Pleuronectiformes) fillets.

(v) *Skin.* Each piece of skin is an area of blemish if skin-on fillets were not used.

(vi) *Scales.* Each loose scale is an area of blemish.

(A) *Slight.* One to six instances in each fish core affected.

(B) *Moderate.* More than six instances in each fish core affected.

(13) *Parasites or parasitic infestations* include metazoan parasites and other parasites that are not protozoan parasites. Each instance is each such parasite or fragment of such a parasite that is detected.

(14) *Foreign matter.* Any harmless extraneous material, including packaging material, not derived from fish or the coating.

(15) *Bones (including pin bone and fin bone in or on the fish core).*

(i) Each bone defect is a bone or part of a bone whose maximum profile is 5/16 in. (0.48 cm) or more in length, or at least 1/32 in. (0.08 cm) in shaft diameter or width or, for bone chips, a longest dimension of at least 5/16 in. (0.48 cm).

(ii) An excessive degree of bone defect is each bone whose maximum profile cannot be fitted into a rectangle, drawn on a flat solid surface, which has a length of 1 3/16 in. (3.02 cm) and a wide of 3/8 in. (0.95 cm).

(16) *Fins or part fins.* This defect refers to two or more bones connected by membrane, including internal or external bones, or both, in a cluster. The bones in fins or part fins are assessed under the bone defect description in paragraph (d)(15) of this section.

(17) *Texture* of the fish core refers to the absence of the normal textural properties of the cooked seafood flesh, such as tenderness, firmness, and moistness, without excess water. Texture defects include abnormal or objectional dryness, mushiness, toughness or rubberiness.

(i) *Moderate.* The texture is distinctly abnormal but not completely objectionable.

(ii) *Excessive.* The texture is distinctly and completely objectionable.

(e) *Listing defect points.* Each sample unit is examined for physical defects, using the list of definitions given in this section. The point deductions for defects are listed for each sample unit, and the point values totaled. The total of the defect points determines the sample unit grade. The scoring system is based on a perfect score of zero.

(f) *Grade assignment.* Each sample unit will be assigned the grade in accordance with the limits for defects summarized as follows:

Grade assignment	Flavor and odor	Maximum number of points for physical defects
U.S. Grade A	Good	15
U.S. Grade B	Reasonably good.	30
U.S. Grade C	Reasonably good.	40

If a sample unit has been assigned a grade for flavor and odor different than the grade indicated by the number of defect points, the sample unit grade will be the lower grade.

§ 269.105 Tolerances for lot certification.

(a) The grade assigned to a lot is the grade indicated by the majority of the sample unit grades, provided that the number of sample units in the next lower grade does not exceed the acceptance number as given in the sampling plans contained in § 260.61 of this subchapter; all of the sample units shall meet the provisions of that section. In § 260.21 of this subchapter, the four score points are additive, not subtractive.

(b) The grade assigned to a lot is one grade below the majority of all the sample unit grades if either:

(1) The number of sample units in the next lower grade exceeds the acceptance number as given in the sampling plans contained in § 260.61 of this subchapter; or

(2) The grade of any one of the sample units is more than one grade below the majority of all the sample unit grades.

§ 269.106 Hygiene.

Products will be processed in official establishments as defined in § 260.6 of this subchapter and maintained in accordance with §§ 269.101 through 269.107 of this subchapter and the Good Manufacturing Practice regulations contained in 21 CFR part 110.

§ 269.107 Methods of analysis.

(a) Fish core content refers to the percent, by weight, of the average fish flesh content of three frozen portions (sample unit for fish flesh determination) as determined by the following method: Calculate the weight of three frozen portions by dividing the declared net weight on the label by the number of portions indicated on the label to obtain the weight of an individual portion and multiply by three. If the number of portions contained in the package is not declared on the label, the actual weight of three frozen portions shall be used. Using tongs, place each portion individually in the water bath maintained at 63° to 120° F (17.2° to 48.9° C) and allow to remain until the breading becomes soft and can easily be removed from the still frozen fish flesh (between 10 to 110 seconds for portions held in storage at 0° F (−17.8° C)). At the end of the immersion, remove the fish portion from the water and blot the portion lightly with double thickness paper toweling. This step should be completed in no more than 7 seconds. Scrape and remove the breading material and batter from the fish flesh with the spatula removing the softened breading material and batter from the narrow sides and ends of the portion on the initial movements, followed by removing the material from the wider flat surfaces. Residual batter and breading may remain on some portions prepared using batters that are difficult to remove after one dipping. When this occurs, redip the partially "debreaded" portion in 63° to 86° F (17.2° to 30.0° C) (room temperature) water for approximately 2 seconds. Remove the fish portion from the water and blot the portion lightly with double thickness paper toweling and remove the softened residual batter and breading material. Weigh all the "debreaded" fish portions. Calculate the percent fish flesh in the sample unit by the following formula:

$$\text{Percent fish flesh} = \frac{\text{Weight of debreaded fish portions}}{\text{Weight of three fish portions}} \times 100 + 2$$

(b) *Cooked state* refers to the state of the product after cooking in accordance with the instructions accompanying the product. However, if specific instructions are lacking, the product shall be cooked as follows:

(1) *Raw, uncoated products.*—(i) *Boiling bag method.* Insert the frozen portions individually into boilable film-type pouches; fold the open end of the pouches over a suspension bar and clamp in place to provide a loose seal after evacuating the air by immersing the pouch into boiling water. Cook the contents for 20 minutes (until the internal temperature of the portions reaches 160° F (71.1° C)); or

(ii) *Steam method.* Wrap portions individually or in a single layer in aluminum foil, and place the packaged portions on a wire rack suspended over boiling water in a covered container. Steam the packaged portions for 20 minutes (until the internal temperature of the portions reaches 160° F (71.1° C)); or

(iii) *Bake method.* Wrap portions individually or in a single layer in aluminum foil, and place the packaged portions on a flat cookie sheet or shallow flat-bottom pan of sufficient

size so that the packages can be evenly spaced on the sheet or pan. Place the pan and frozen contents in a properly ventilated oven preheated to 400° F (204.4° C) for 20 minutes (until the internal temperature reaches 160° F (71.1° C)); or

(iv) *Microwave method.* Wrap portions of uniform thickness individually in plastic wrap or microwave food bags. Place on food grade paper plate. Heat until product reaches an internal temperature of 160° F (71.1° C), rotating plate one-quarter turn halfway through the cook cycle.

(2) *Raw, breaded product* is transferred, while still frozen, into a wire mesh fry basket large enough to hold the fish portions in a single layer and cooked by immersing them 3–5 minutes in liquid or hydrogenated cooking oil heated to 350° F to 375° F (176.7° C to 190.6° C). After cooking, allow the fish portions to drain 15 seconds and place them on a paper napkin or towel to absorb excess oil.

(3) *Precooked, breaded and precooked, in-batter product* is transferred, while still frozen, onto a flat pan or sheet of sufficient size to accommodate ten portions spaced at least ¼ in. apart. Place the pan and frozen contents in a properly ventilated oven preheated to 400° F (204.4° C) until thoroughly cooked (about 15 to 18 minutes, or to an internal temperature of 160° F (71.1° C)).

(c) *Net weight.* (1) The net weight of glazed, raw, uncoated portions shall be determined by the following method: Remove package from low temperature storage, open immediately, and place contents under gentle spray of cold water. Agitate carefully so product is not broken. Spray until all ice glaze that can be seen or felt is removed. Transfer product to circular No. 8 sieve, 20 cm (8 in.) diameter for less than or equal to 0.9 kg (2 lb.) and 30 cm (12 in.) for greater than 0.9 kg (2 lb.). Without shifting product, incline sieve at angle of 17–20° to facilitate drainage and drain exactly 2 minutes (stop watch). Immediately transfer product to tared pan (B) and weigh (A). Weight of product = A − B.

(2) The net weight of unglazed portions shall be determined by the following method: Remove package from low temperature storage. Remove ice and frost from outside of package, and weigh immediately (W). Open package and remove contents, including any product particles and ice crystals. Air dry empty package at room temperature and weigh (E). Weight of contents = W − E.

Tables to Part 269

TABLE 1.—DEFECT TABLE FOR UNCOATED PORTIONS. SIZE OF SAMPLE UNIT IS GIVEN IN § 269.104(b).

Type of defect	Degree	Point value
Frozen state:		
1. Condition of the package.	Not applicable	
2. Ease of separation. Each portion affected.		
Slight	Each instance	1
Moderate	Each instance	2
3. Broken	Each portion affected	10
4. Damaged. Each portion affected.		
Slight	1 to 5 instances	4
Moderate	More than 5 instances	8
5. Uniformity of weight. (Not applicable to intentionally non-uniform declared weights).		
Slight	Ratio 1.20 to 1.30	2
Moderate	Ratio 1.31 to 1.40	5
Excessive	Ratio over 1.40	12
6. Uniformity of size. (Not applicable to intentionally non-uniform declared sizes).		
Moderate	¼ in. to ½ in (0.64 cm to 1.27 cm)	3
Excessive	Over ½ in. (1.27 cm)	12
7. Voids. Each portion affected.		
Slight	1 to 5 instances	1
Moderate	More than 5 instances	2
8. Dehydration. Each portion affected.		
Moderate	Easily scraped	5
Excessive	Difficult to scrape and affecting more than 10 percent of areas	10
Cooked state:		
9. Distortion	Not applicable	
10. Coating defects	Not applicable	
11. Texture of the coating	Not applicable	
12. Blemishes: Including blood spots bruises, discoloration, viscera, roe, lace, skin scales. Each portion affected.		
Slight	1 to 6 instances	3
Moderate	More than 6 instances	6
13. Parasites. Metazoan or other non-protozoan parasites	Each instance	8
14. Foreign matter. Harmless material	Each instance	10
15. Bones, including pin bone and fin bone.		
Each bone defect	Each instance	8
Each excessive degree of bone defect	Each instance	12
16. Fins and part fins. Two or more bones connected by membrane in a cluster. Count as bones (see above.)		
17. Texture of the fish core. Overall assessment:		
Moderate degree	Moderate	5
Excessive degree	Excessive	16

TABLE 2.—DEFECT TABLE FOR COATED PORTIONS. SIZE OF SAMPLE UNIT IS GIVEN IN § 269.104(b).

Type of defect	Degree	Point value
FROZEN STATE		
1. Condition of the package.		
Slight	Each instance	3

TABLE 2.—DEFECT TABLE FOR COATED PORTIONS. SIZE OF SAMPLE UNIT IS GIVEN IN § 269.104(b).—Continued

Type of defect	Degree	Point value
Moderate	Each instance	6
2. Ease of separation. Each portion affected.		
Slight	Each instance	1
Moderate	Each instance	2
3. Broken.	Each portion affected.	10
4. Damaged. Each portion affected.		
Slight	1 to 5 instances	4
Moderate	More than 5 instances	8
5. Uniformity of weight. (Not applicable to intentionally non-uniform declared weights.)		
Slight	Ratio 1.20 to 1.30	2
Moderate	Ratio 1.31 to 1.40	5
Excessive	Ratio over 1.40	12
6. Uniformity of size. (Not applicable to intentionally non-uniform declared sizes.)		
Moderate	¼ in. to ½ in. (0.64 cm to 1.27 cm)	3
Excessive	Over ½ in. (1.27 cm)	12
7. Voids	Not applicable	
8. Dehydration	Not applicable	
COOKED STATE (coating still on portion)		
9. Distortion. Each portion affected.		
Slight	¼ in. to ½ in. (0.64 cm to 1.27 cm)	1
Moderate	Over ½ in. (1.27 cm)	2
10. Coating defects.		
Irregular areas: For each portion weighing 1.5 oz. 42.52 g) or less:		
Slight	1 to 3 instances	1
Moderate	More than 3 instances	2
Irregular areas: For each portion weighing more than 1.5 oz. (42.52 g).		
Slight	1 to 6 instances	1
Moderate	More than 6 instances	2
Discoloration	Each portion affected	4
11. Texture of the coating. Overall assessment.		
Moderate degree	Moderate	5
Excessive degree	Excessive	16
COOKED STATE (fish core only).		
12. Blemishes: Including blood spots, bruises, discoloration, viscera, roe, lace, skin, scales. Each portion affected.		
Slight	1 to 6 instances	3
Moderate	More than 6 instances	6
13. Parasites.		
Metazoan or other non-protozoan parasites	Each instance	8
14. Foreign matter.		
Harmless material	Each instance	10
15. Bones, including pin bone and fin bone.		
Each bone defect	Each instance	8
Each excessive degree of bone defect	Each instance	12
16. Fins or part fins. Two or more bones connected by membrane in a cluster. Count as bones (see above.)		
17. Texture of fish core. Overall assessment.		
Moderate degree	Moderate	5
Excessive degree	Excessive	16

[FR Doc. 90-13269 Filed 6-8-90; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 55, No. 112
Monday, June 11, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE
Animal and Plant Health Inspection Service

[Docket No. 90-086]

General Conference Committee of the National Poultry Improvement Plan; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan.

PLACE, DATES, AND TIMES OF MEETING: The meeting will be held at the Alexis Park Resort Hotel, Las Vegas, Nevada, June 25–27, 1990, from 9 a.m. to 5 p.m., and June 28, 1990, from 9 a.m. to 2 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Irvin L. Peterson, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, room 771, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7768.

SUPPLEMENTARY INFORMATION: The General Conference Committee of the National Poultry Improvement Plan (Committee) makes recommendations to the Department concerning the poultry industry and the poultry improvement regulations contained in 9 CFR parts 145 and 147.

Topics of discussion will include whether to recommend to the Department that the following changes be made in the regulations in 9 CFR parts 145 and 147:

1. A change to require isolation and testing of additions of new stock from nonparticipating sources.

2. Several alternative changes to the "U.S. Sanitation Monitored" program to adapt to change in status of disease and other conditions in the chicken industry.

3. A change which would provide for a new name and program "U.S. Enteritidis Clean" for egg-type chicken breeding flocks.

4. Changes in testing requirements of game bird breeding flocks to meet the needs of this segment of the poultry industry.

5. Several similar changes to recognize States that are making progress in controlling mycoplasma diseases.

6. Changes in 9 CFR part 147 to provide guidelines and procedures to perform the diagnostic culturing and serologic tests.

The meeting will be open to the public. The session held on June 26, 27, and 28, 1990, will include the delegates to the Biennial National Plan Conference, representing State officials and poultry industry personnel from the 47 cooperating States. Persons interested in expressing their views concerning the above topics or other aspects of the National Poultry Improvement Plan should send their written comments to Dr. Irvin L. Peterson at the address listed under "FOR FURTHER INFORMATION CONTACT." The Committee will also accept written comments at the time of the meeting. Please refer to Docket Number 90–086 when submitting your comments.

Written comments received by Dr. Peterson may be inspected in room 771 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

This notice is given in compliance with the Federal Advisory Committee Act (Pub. L. 92–463).

Done in Washington, DC, this 6 day of June 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–13454 Filed 6–6–90; 3:10 pm]
BILLING CODE 3410-34-M

Food and Nutrition Service

National School Lunch Program: Pilot Programs, Alternatives to the Meal Counting and Free and Reduced Price Application Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the Department's intention to authorize selected State agencies and school food authorities to conduct pilot programs which test alternatives to daily free, reduced price, and paid meal counts and annual applications to determine eligibility for free and reduced price meals under the National School Lunch Program. The results of these pilot programs will be used in considering policy revisions to create a better balance between the paperwork requirements and program accountability in participating schools. Approved pilot programs will operate under the authority of section 18(d)(1) of the National School Lunch Act.

DATES: This action is effective June 11, 1990. Written requests to conduct pilot programs shall be submitted or postmarked on or before July 26, 1990.

ADDRESSES: Written requests to conduct pilot programs shall be submitted to Mr. Robert Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 515, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eadie at the above address or by phone at (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This Notice has been reviewed by the Assistant Secretary for Food and Consumer Services under Executive Order 12291 and has been classified not major. This Notice will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The National School Lunch Program is listed in the Catalog of Federal Domestic Assistance under No. 10.555 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29112, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are

subject to the Office of Management and Budget (OMB) review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). Interested parties are advised, however, that approved pilot programs will be subject to additional reporting and recordkeeping requirements as a part of the evaluation process.

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

Background

National School Lunch Program regulations (7 CFR part 210) and related regulations, Determining Eligibility for Free and Reduced Price Meals and Free Milk (7 CFR part 245), impose recordkeeping requirements aimed at maintaining program integrity. Some concern has been expressed regarding the paperwork burden imposed on schools by two of those requirements. The requirements are: (1) Counting, on a daily basis, the number of free, reduced price and paid reimbursable lunches served; and (2) taking annual applications to determine eligibility for free and reduced price lunches.

Under § 210.7(c) of the program regulations, school food authorities are, with certain exceptions discussed below, required to base their claim for Federal reimbursement on daily lunch counts at the point of service. Such claims must identify the number of free, reduced price, and paid reimbursable lunches served. This requirement is designed to ensure that claims for Federal reimbursement are limited to the number of free, reduced price, and paid lunches actually served to children eligible for such benefits, for each day of operation.

Under § 245.5(a)(1), school food authorities are also required, on or about the beginning of each school year, to notify the parents of all children enrolled in school of the availability of free and reduced price lunch benefits and how they may apply for such benefits for their children. Section 245.6(a) identifies the information which must be submitted by the household each year to apply for free and reduced price benefits. Section 245.6(b) requires that when a completed application furnished by the household falls within the annually issued Income Eligibility Guidelines, the school food authority must notify the household and provide the children from that household the benefits to which they are entitled for that school year.

Both the daily lunch count and the annual application requirements are designed to ensure that Federal funds are used for the delivery of lunches meeting the meal pattern requirements to children eligible for free, reduced price, and paid lunches. Congress, the Department, and State and local school food authorities, over the years, have constantly been seeking ways to decrease paperwork burdens while retaining an appropriate degree of program accountability.

Section 9 of Public Law 95–166, enacted on November 10, 1977, first recognized the need for a balance between accountability and paperwork by amending section 11(a)(1) of the National School Lunch Act (NSLA) to authorize the special assistance certification and reimbursement alternatives. These alternatives are commonly referred to as Provision 1 and Provision 2 and allow schools to reduce the annual certification and public notification requirements. Provision 2 also allows participating schools to base claims for reimbursement on claiming percentages rather than daily meal counts by eligibility category.

More recently, section 205 of Public Law 101–147, enacted on November 10, 1989, amended section 18 of the NSLA to require the Secretary to conduct three pilot programs seeking to simplify and further reduce the paperwork burden incurred by the requirements for daily lunch counts and annual applications. The Secretary was also provided with the discretionary authority to conduct other pilot programs relating to counting and claiming.

The first pilot program, authorized under section 18(d)(1) of the NSLA, requires the Secretary to solicit proposals for State agencies and school food authorities to conduct pilot programs which test alternatives to daily meal counts and annual applications. This notice solicits proposals as directed under section 18(d)(1). The notice of Intent portion of this Notice provides detailed information which will assist in the development and submission of proposals under section 18(d)(1).

The second and third pilot programs, authorized under paragraphs (d)(2) and (d)(3) of section 18 of the NSLA, require the Secretary to carry out pilot programs under which a limited number of schools participating under Provision 1 and Provision 2 of the special assistance certification and reimbursement alternatives have the option of determining the number of free, reduced price and paid meals served daily by multiplying the daily total meal counts by percentages determined on the basis of current enrollment and eligibility status. Provision 1 schools participating in this pilot program will also certify children for free and reduced price meals for three rather than two years.

Since the Department already has a list of the schools participating under both Provisions 1 and Provision 2, school food authorities with participating schools will receive a targeted mailing which provides information regarding their potential participation in the pilot programs authorized under section 18 (d)(2) and (d)(3) of the NSLA.

In addition to the three required pilot programs, section 18(d)(4) of the NSLA authorizes the Secretary to conduct any other pilot programs to test alternative counting and claiming procedures which do not fall into the pilot programs authorized under section 18(d)(1)–(3). The Department may exercise this authority for developing alternative pilot projects at some later date.

Notice of Intent

The Department is issuing this notice to solicit proposals from State agencies and school food authorities wishing to conduct pilot programs under the authority of section 18(d)(1) of the NSLA. The Department intends to issue final regulations reflecting the requirements of the pilot programs authorized under section 18(d)(1)–(3) following the issuance of this notice. Specifically, section 18(d)(1) states:

(A) The Secretary shall carry out a pilot program for purposes of identifying alternatives to—

(i) Daily counting by category of meals provided by school lunch programs under this Act; and

(ii) Annual applications for eligibility to receive free meals or reduced price meals.

(B) For the purposes of carrying out the pilot program under this paragraph, the Secretary may waive requirements of this Act relating to counting of meals provided by school lunch programs and applications for eligibility.

(C) For the purposes of carrying out the pilot program under this paragraph, the Secretary shall solicit proposals from State educational agencies and local educational agencies for the alternatives described in subparagraph (A).

In recognition of the diversity of program operations, the Department would like to encourage as much flexibility as possible in the development of pilot programs under this authority. As a result, interested parties are not being provided with detailed specifications or a set format for application, since a structured application may, in and of itself, discourage creative proposals. There are, however, several operational and application requirements which must be addressed relating to any pilot program.

Basic Operational Information

In developing proposals for pilot programs, interested parties are advised that:

(1) Approved pilot programs must comply with all program regulations (7 CFR parts 210, 220 and 245), except for those requirements relating to the counting of meals and the annual applications for eligibility waived by the Department after review of the application.

(2) Approved pilot programs will be operational for three years. The Department will evaluate the effectiveness of the pilot programs in reducing paperwork while maintaining program accountability. Pilot programs must provide sufficent opportunity for program evaluation, including the retention of any pilot program-related records, provide for the submission of any additional reporting forms developed by the Department, and make provision for on-site visits.

(3) The Department will consider allowing approved pilot program procedures to be used in the School Breakfast Program to the extent that the pilot program is conducted in a school operating both the lunch and breakfast programs and using the same meal counting and application procedures in both programs.

Federal Financial Participation

Interested parties are advised that the Department does not have the authority to offer any funding support for any pilot program in excess of the reimbursement earned on the basis of the number of reimbursable meals served, by eligibility category. The Department expects that the reduction in paperwork will eventually provide some administrative relief to participating State agencies, school food authorities, and schools in the future.

Who is the Responsible Party?

In accordance with the provisions of section 18(d)(1) of the NSLA, State agencies may submit a proposal to participate in a pilot program. If the proposal is accepted, officials from the Department and the State agency will sign a Letter of Agreement specifying the terms and conditions of the pilot program.

School food authorities may also submit a proposal to conduct a pilot program in accordance with paragraph (d)(1). If the proposal is accepted, officials from the Department and the school food authority will sign a Letter of Agreement specifying the terms and conditions of the pilot program. In such cases, the Letter of Agreement must be co-signed by the State agency. The Department will not enter into an agreement with an individual school.

State agencies and school food authorities should take note that the Department is requiring the State agency to co-sign any Letter of Agreement entered into by the Department and a school food authority. The Letter of Agreement will be considered as an addendum to the State agency-school authority agreement. When conducting any program monitoring activities in a school food authority participating in a pilot program, the State agency will be required to evaluate the school food authority's compliance with program regulations, as amended by the signed Letter of agreement.

How to Apply?

Any State agency or school food authority interested in participating in a pilot program under section 18(d)(1) of the NSLA, must submit a letter describing its interst in participating in the pilot program to Mr. Robert Eadie, Chief, Policy and Program Development Branch, CND–FNS–USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. The letter shall be submitted or postmarked no later than July 26, 1990).

Interested parties must include in their letter, at a minimum, the information outlined below. Interested parties are asked to separately identify each of the following areas to facilitate review of the proposed pilot program:

(1) A complete description of the proposed pilot program, including:

(a) The alternative certification and/or meal counting procedures proposed and how there procedures differ from current operations; and

(b) For each school involved, (i) the name and address,

(ii) The number of meals served by category and days of operation for October, 1989, and (iii) the number of children approved for free and reduced price meals and total student enrollment as of the last day of October, 1989.

(2) A description of how the proposed pilot program is intended to meet the objectives of reducing paperwork while maintaining program accountability.

(3) A contact person, including title, address, and phone number.

Selection of Sites

All proposals submitted under section 18(d)(1) of the NSLA that conform to the requirements of this Notice will be reviewed and evaluated by Federal officials for technical acceptability. Applications will be rated based on the following criteria:

(1) Acceptability of procedures to reduce paperwork, including any cost savings anticipated. (25 points)

(2) Acceptability of procedures to ensure accountability, including the maintenance of a recordkeeping and accounting system. (25 points)

(3) Acceptability of procedures to ensure compliance with program regulations and pilot program procedures. (20 points)

(4) Likelihood of findings which have wide applicability in the program. (30 points)

Implementation of the Pilot Programs

State agencies and school food authorities approved to conduct pilot programs authorized under section 18(d)(1) of the NSLA will receive notification of approval by August 10, 1990. Approved State agencies and school food authorities will be required to sign a Letter of Intent, developed by the Department, to participate in the pilot program prior to the beginning of school for School Year 1990–91. Upon receipt of the signed Letter of Intent, the Department will make plans to study the conduct of site operations for School Year 1990–91.

Approved State agencies and school food authorities will be required to sign a Letter of Agreement, developed by the Department, prior to the beginning of school for School Year 1991–92. As discussed above, State agencies are required to co-sign any Letter of Agreement entered into by the Department and their school food authorities. Approved State agencies and school food authorities with a signed Letter of Agreement on file will begin pilot operations with the start of school for School Year 1991–92 and conclude operations with the close of School Year 1993–94.

The Department believes that this two-step approach will provide the Department with baseline data needed to evaluate the effectiveness of the pilot programs. Further, this approach is expected to provide selected sites with the time needed to develop forms, train staff, and further refine pilot program operations prior to the conduct of the pilot program.

Authority: Sec. 18 of the National School Lunch Act, as amended (42 U.S.C. 1769).

Dated: June 5, 1990.

George A. Braley,

Acting Administrator.

[FR Doc. 90–13357 Filed 6–8–90; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom Initiation of Antidumping Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of antidumping duty orders concerning Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom. In accordance with the Commerce Regulations, we are initiating those administrative reviews for the period November 9, 1988 through April 30, 1990.

EFFECTIVE DATE: June 11, 1990.

FOR FURTHER INFORMATION CONTACT: Richard W. Moreland, Director, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with §§ 353.22(a)(1), (2), and (3) of the Department's regulations, for administrative reviews of antidumping duty orders covering antifriction bearings (other than tapered roller bearings) and parts thereof. The orders cover three classes or kinds of merchandise: ball bearings (ball), cylindrical roller bearings (cylindrical) and spherical plain bearings (spherical).

Initiation of Reviews

In accordance with § 353.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping duty orders. We intend to issue the final results of these reviews no later than May 31, 1991.

Antidumping duty proceedings and firms	Class or kind
Federal Republic of Germany A-428-801:	
FAG Kugelfischer Georg Schaefer KGaA.	All.
Feinmechanische Werke GmbH.	All.
Fiat Aviazione S.p.A..	Ball & Cylindrical.
Frankenjura Industrie GmbH.	All.
Gebruder Reinfurt GmbH & Co. Kg.	Ball.
Georg Meuller Nurnberg, AG.	All.
Heidelberg Druckmaschinen, AG.	All.
Henschel Flugzeug-Werke GmbH.	All.
INA Walzlager Schaeffler KG.	All.
MAN GHH Corporation.	Ball & Cylindrical.
Messerschmitt-Boelkow-Blohm GmbH.	All.
Neuweg Fertigung GmbH.	Ball.
NMB Bearings GmbH.	All.
Normenstelle Luftfahrt.	All.
NTN Kugellargerfabrik (Deutschland) GmbH.	All.
Pratt & Whitney Canada, Inc..	All.
SKF GmbH (including all its affiliates).	All.
Zahnradfabrik Friedrichshafen AG.	All.
France A-427-801:	
ADR Les Applications.	All.
Aerospatiale Division Helicopters.	All.
Application Aeronautique.	All.
Fiat Aviazione S.p.A..	Ball & Cylindrical.
INA Roulements S.A..	All.
Pratt & Whitney Canada, Inc..	All.
SARMA	Ball & Cylindrical.
SKF France	All.
SNFA	Ball & Cylindrical.
Societe Nationale d'Etude et de Construction de Moteurs d'Aviation (SNECMA).	Ball & Cylindrical.
SNR Roulements	All.
Turbomeca	All.
Valeo, Societe Anonyme.	All.
Italy A-475-801:	
Danieli & C. S.p.A.	Ball.
FAG Italy	Ball & Cylindrical.
FIAT Aviazone S.p.A..	Ball & Cylindrical.
Japanese Aero Engines Corporation.	Ball & Cylindrical.
Meter, S.p.A.	Ball & Cylindrical.
RIV-SKF	Ball & Cylindrical.
Rolls Royce	Ball & Cylindrical.
SNECMA	Ball & Cylindrical.
Somecat	Ball.
Japan A-588-804:	
Asahi Seiko Co., Ltd.	All.
Fuji Heavy Industries Ltd.	All.
Funjino Iron Works Co., Ltd.	Ball.
HIC Corporation	All.
Honda Motor Co., Ltd.	All.
Inoue Jikuuke Kogyo Co., Ltd.	All.
Isuzu Motors Limited.	All.
Izumoto Seiko Co., Ltd.	Ball.
Japanese Aero Engines Corporation.	All.
Kawasaki Heavy Industries Ltd.	All.
Koyo Seiko Company, Ltd.	All.
Kuroe Industries Co..	Spherical.
Matsuo Bearing Co..	All.
Minebea Co., Ltd	All.
Nachi-Fujikoshi Corporation.	All.
Nakai Bearing Co., Ltd.	All.
Nankai Seiko Co., Ltd.	All.
Nippon Pillow Block Sales Company, Ltd.	All.
Nippon Seiko K.K.	All.
NTN Corporation	All.
Osaka Pump Co., Ltd.	All.
Peer International Japan.	Ball.
R. Fukuda & Co., Ltd.	All.
Sapporo Precision, Inc.	All.
Showa Pillow Block Mfg., Ltd.	Ball.
Takeshita Seiko Co., Ltd.	All.
Tottori Yamakai Bearing Seisakusho.	Ball.
Uchiyama Mfg. Corp..	All.
Wada Seiko Company, Ltd.	Ball.
Yamaha Motor Company.	All.
Romania A-485-801:	
Tehnoimportexport	Ball.
Singapore A-559-801:	
NMB Singapore Ltd..	Ball.
Pelmec Industries (Pte.) Ltd.	Ball.
Sweden A-401-801:	
SKF Sverige	Ball and Cylindrical.
SKF Mekanprodukter.	Ball and Cylindrical.
Thailand A-549-801:	
NMB Thai Ltd	Ball.
Pelmec Thai Ltd	Ball.

Antidumping duty proceedings and firms	Class or kind
United Kingdom A-412-801:	
AMPEC PLC	All.
Barden Corporation	Ball Bearings.
Cooper Bearings Ltd.	Cylindrical.
Dowty Rotol Limited.	Ball and Cylindrical.
Dowty Bolton Paul Limited.	Ball and Cylindrical.
FAG UK	Ball and Cylindrical.
FIAT Aviazone S.p.A.	All.
Pratt & Whitney Canada, Inc.	Ball and Cylindrical.
RHP Bearings	Ball and Cylindrical.
Rolls Royce	Ball and Cylindrical.
SKF-UK	All.
SNFA Bearings Ltd	Ball.
Torrington	Ball and Cylindrical.

Interested parties must submit applications for administrative protective orders in accordance with § 353.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) (1989).

June 1, 1990.

David P. Mueller,

Acting Deputy Assistant Secretary, for Compliance.

[FR Doc. 90-13371 Filed 6-8-90; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended export trade certificate of review, Application No. 87-5A004.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the National Machine Tool Builders' Association on May 19, 1987. Notice of issuance of the Certificate was published in the Federal Register on May 22, 1987 (52 FR 19371).

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 87-00004 was issued to the National Machine Tool Builders' Association ("NMTBA") on May 19, 1987. Notice of issuance of the Certificate was published in the Federal Register on May 22, 1987 (52 FR 19371).

The listing of "Members" named in NMTBA's Export Trade Certificate of Review, as previously amended, has been amended as follows:

1. Each of the following companies has been added as a "Member" of the Certificate: CIMA U.S.A., Richmond, VA; Digital Electronic Automation, Inc., Livonia, MI; ETTCO Tool & Machine Co., Inc., York, PA; Lenawee Industrial Machine, Inc., Adrian, MI; Light Machines Corp., Manchester, NH; Okuma Machinery, Inc., Charlotte, NC; Oliver Machinery Co., Grand Rapids, MI; Timmco International, Inc., Largo, FL; Wilton Machinery, Palatine, IL; and Wisconsin Drill Head Co., West Allis, WI.

2. Each of the following companies has been deleted as a "Member" of the Certificate: Automated Process Inc.; Haumiller Engineering Company; Productivity Systems, Inc.; and Schreiber Manufacturing Co., Inc.

3. The names of the following "Members" have been changed (new names in parentheses): A.P.E.C. (Guill Tool & Engineering Co. Inc.); CAM-APT Technologies (CAM-APT Inc.); GTE Valentine Corporation (GTE Valenite Corporation); C.O. Hoffacker Company—Division of the Hoff Co. (C.O. Hoffacker Company); Hoglund Tri-Ordinate Corporation (Hoglund Corporation); Laserdyne Division (Lumonics Corporation); Pacific Press and Shear Corp. (Pacific Press & Shear Inc.); and Preco Industries (Preco Industries Inc.)

Pursuant to section 304(a)(2) of the ETC Act, 15 U.S.C. section 4014(a)(2), and 15 CFR 325.7, the amended Certificate is effective from March 22, 1990, the date on which the application for an amendment was deemed submitted.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

June 1, 1990.

Douglas J. Aller,

Director, Office of Export Trading, Company Affairs.

[FR Doc. 90-13365 filed 6-8-90; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council will hold its 47th Scientific and Statistical Committee (SSC) meeting on June 14-15, 1990, at 9 a.m., at the National Marine Fisheries Service, Honolulu Laboratory Conference/Seminar Rooms, 2570 Dole Street, Honolulu, HI.

The SSC will review and make recommendations as appropriate on the following: (1) The draft of the 3rd Annual Pelagics report; (2) NMFS' response to the Council's request for exemption from defining overfishing of pelagic species; (3) the draft Bottomfish Annual report; (4) the draft Bottomfish Overfishing Amendment; (5) the draft Precious Corals Amendment #2 (including overfishing); (6) the Crustaceans overfishing statement of consistency; (7) the Report on the potential for developing a limited access program in the crustacean fisheries; (8) long range planning; duties of the SSC and other administrative business; and (9) reauthorization of the Magnuson Fishery Conservation and Management Act.

For further information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Dated: June 5, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-13398 Filed 6-8-90; 8:45 am]

BILLING CODE 3510-22-M

Endangered Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, DOC.

ACTION: Request for modification to permit No. 571.

SUMMARY: Notice is hereby given that Ms. Jan Straley, P.O. Box 273, Sitka, Alaska 99835, has requested a modification to Permit No. 571 issued on November 14, 1986 (51 FR 42127) and modified on February 19, 1988 (53 FR 5030) under the authority of the Marine Mammal Protection Act and the Endangered Species Act.

This proposed modification would include feeding strategies of humpback whales (*Megaptera novaeangliae*) in southestern Alaska, using a remotely operated vehicle, to assess differences in feeding behavior due to changes in prey density or prey type.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this proposed permit modification would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this modification request are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification request are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910 and

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Dated: June 4, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-13356 Filed 6-8-90; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Marine Mammal Permit

AGENCY: National Marine Fisheries Service (NOAA Fisheries), NOAA, Commerce and Fish and Wildlife Service, Interior.

ACTION: Marine mammals; issuance of Permit No. 673.

SUMMARY: On Friday, January 27, 1989, notice was published in the **Federal Register** (54 FR 4058) that an application (P405A) has been filed by the Burke Memorial Washington State Museum to take an unspecified number of dead marine mammals and/or parts thereof.

Notice is hereby given that on May 29, 1990, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1532–1544), and the National Marine Fisheries Service Regulations Governing Endangered Fish and Wildlife permits (50 CFR parts 217–222), issued a permit for the above activities subject to the conditions set forth therein.

The permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East-West Highway, room 7330, Silver Spring, Maryland 20910;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 98115–0070;

Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930; and Department of the Interior, U.S. Fish and Wildlife Services, Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203–3507.

Dated: February 12, 1990.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

Dated: May 24, 1990.

Richard K. Robinson,

Chief, Permit Branch, Office of Management Authority, U.S. Fish and Wildlife Service.

[FR Doc. 90-13355 Filed 6-8-90; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment, Adjustment and Amendment of Import Limits for Certain Cotton, Wool, Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

June 4, 1990

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing, adjusting and amending limits.

EFFECTIVE DATE: June 11, 1990.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–9480. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and Indonesia agreed to amend the current limits for Category 315 and the wool subgroup and to establish a level for Category 326 (sublevel of Categories 317/617/326).

Also the limits for Categories 336/636 and 341 are being increased for swing and carryforward. The limit for Category 635 is being reduced to account for the swing applied to Category 341.

A description of the textile and apparel categories in terms of HTS numbers is available in the correlation: Textile and Apparel Categories with the

Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 27664, published on June 30, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.;

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Commissioner: This directive amends, but does not cancel, the directive of June 23, 1989, issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the period July 1, 1989 through June 30, 1990.

Effective on June 11, 1990, you are directed to establish, adjust and amend the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Indonesia:

Category	New, Adjusted and Amended Limits [1]
315	18,130,247 square meters.
317/617/326	13,663,188 square meters shall be in Category 326.
341	595,890 dozen.
635	77,364 dozen.
Sublevels in Group II: 336/636	438,108 dozen.
Wool Subgroup: 400–444 and 447–469, as a group.	2,610,232 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1989.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foregin affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–13364 Filed 6–8–90; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

The Chicago Board of Trade's and the National Futures Association's Proposed Revisions to their Respective Financial and Reporting Requirements for Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market and registered futures association rule changes.

SUMMARY: The Chicago Board of Trade ("CBOT") and the National Futures Association ("NFA") have submitted to the Commodity Futures Trading Commission ("Commission") various rule proposals which would revise their respective financial and reporting requirements for member futures commission merchants ("FCMs"). The respective proposals each would increase the member FCM minimum adjusted net capital requirement from $50,000 to $250,000; clarify the financial reporting requirements of member FCMs, including increasing the "early warning" level at which member FCMs must report to either the CBOT or NFA from $75,000 to $375,000 of adjusted net capital; and, revise certain financial requirements which base their calculations on the minimum adjusted net capital requirement, including raising the level at which withdrawals from an FCM's equity capital would be prohibited.

The Commission has determined that the CBOT's and the NFA's respective proposals are each of major economic significance and that, accordingly, publication of both proposals is in the public interest, will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Commodity Exchange Act ("Act").

DATES: Comments must be submitted by July 11, 1990.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission; 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letters dated January 25, 1990 and March 12, 1990, the NFA, pursuant to section 17(j) of the Act, submitted to the Commission proposed amendments to NFA Financial Requirements sections 1 and 6; Schedule B, section B2–a(ii)(A); and, Schedule C, sections C1–b(vi)(C), C1–b(vii), C1–b(viii)(A), C2–b, C2–e and C2–f.

Similarly, by letter dated April 18, 1990, the CBOT, pursuant to section 5a(12) of the Act and Commission Regulation 1.41(c), submitted to the Commission a proposed new CBOT Capital Rule 202 and proposed amendments to CBOT Capital Rules 201, 230, 250B (6) through (8), 251B, 251E and 251F.[1]

The CBOT's and NFA's respective proposals would increase their member FCM minimum adjusted net capital requirements from $50,000 to $250,000 (CBOT Capital Rule 201 and NFA Financial Requirements section 1); clarify the financial reporting requirements of member FCMs including increasing the early warning level at which member FCMs must report to either CBOT or NFA from $75,000 to $375,000 of adjusted net capital (CBOT Capital Rule 202 and NFA Financial Requirements section 6); revise certain financial requirements which base their calculations on the minimum adjusted net capital requirement, including raising the level at which withdrawals from an FCM's equity capital would be prohibited (CBOT Capital Rules 230, 250B (6) through 250B(8), 251B, 251E and 251F and NFA Financial Requirements Schedule B, sections B–2a(ii)(A) and Schedule C, sections C1–b(vi)(C), C1–b(vii), C1–b(viii)(A), C2–b, C2–e and C2–f).

II. Description of CBOT's and NFA's Proposals

A. Minimun Adjusted Net Capital—CBOT Capital Rule 201 and NFA Financial Requirements Section 1

CBOT's proposed amendment to its Capital Rule 201 and NFA's proposed amendment to its Financial Requirements section 1 would raise the minimum adjusted net capital requirements [2] for their respective

[1] By letter dated April 30, 1990, the Division of Trading and Markets ("Division") informed the CBOT that Commission Regulation 1.52 requires that certain rules establishing capital requirements for member FCMs be approved by the Commission and that, accordingly, the Division would treat the submission as if it has been submitted for Commission approval pursuant to Commission Regulation 1.41(b).

[2] CBOT Capital Rule 201 and Schedule A of NFA's Financial Requirements, which both

Continued

member FCMs from $50,000 to $250,000.[3] NFA's proposed adjusted net capital requirement would apply to all of its member FCMs, regardless of whether the member was an exchange member as well. CBOT's and NFA's current adjusted net capital requirements both largely replicate the financial requirements established by Commission Regulation 1.17.[4]

NFA is proposing its increase because it believes that changes in the futures industry over the past decade require corresponding changes to the minimum dollar amount of the adjusted net capital requirement. Therefore, it contends that a change in the minimum net capital requirement is necessary in order to provide the same degree of customer protection that was provided by the $50,000 adjusted net capital requirement when it was originally adopted in 1978. NFA believes that its minimum net capital requirements must be raised to at least $250,000 in order to regain that degree of protection.[5]

In light of NFA's proposal, CBOT is proposing to increase its minimum adjusted net capital requirement also. CBOT has proposed to implement its increase concurrently with NFA's.

NFA particularly cites various factors in support of its proposed revision to the required level of minimum adjusted net capital for FCMs. First, NFA notes that over the last decade volume on domestic futures markets has increased from 58.5 million futures contracts in 1978[6] to 245.9 million futures contracts and 49.1 million options contracts in 1988[7]—approximately a 400% increase. Second, while volume has grown by 400%, the number of registered FCMs has grown by only 11% from 325 FCMs in August 1979,[8] to 361 FCMs in March 1990.[9] Therefore, NFA contends that the volume of business done by each FCM has increased significantly in the past decade. For instance, NFA indicates that the average amount of funds in segregation at each FCM rose from $8.7 million in 1980 to $28.5 million in 1985—more than a three-fold increase.[10] Third, NFA points out that along with this substantial growth in the futures industry, there has been a decline in the value of the dollar of some 46% since 1978 as measured by the Consumer Price Index ("CPI").[11] Thus, NFA argues that even if the futures industry had remained static since 1978, the minimum capital requirement would have to be raised to $93,000 just to compensate for the change in the value of the dollar.

NFA believes that its proposed revision to capital requirements would adjust for the growth in the industry, the increase in segregated funds per FCM, and the decreasing value of the dollar[12] and thus provide adequate protection against losses from FCM insolvencies. Based on the combined effect of these factors, NFA believes that the minimum adjusted net capital requirement must be raised to at least $250,000 in order to provide the same degree of protection that was provided by the $50,000 requirement in 1978.

NFA further supports its proposed increase to $250,000 by citing instances of customer losses due to FCM insolvencies since NFA began operation. NFA states that thinly capitalized FCMs have historically posed the greatest risk to the safety of customer funds. NFA represents that in three of the four insolvencies which involved the actual or currently projected loss of customer funds, the insolvency resulted from large customer debits in a limited number of accounts.[13] In all four cases, the firms maintained capital at or only slightly above the current early warning level of $75,000. In three cases the actual or projected losses were between $100,000 and $300,000. NFA points out that its proposed minimum adjusted net capital level of $250,000 would have covered all of the losses in two of these cases and most of the losses in the third.[14]

In its submission, NFA particularly cites two recent examples of NFA member FCMs—X-Cel Commodities Corporation ("X-Cel") and Interbrokers USA, Inc. ("Interbrokers")—which became insolvent under similar circumstances. Both X-Cel and Interbrokers became undercapitalized and undersegregated as a result of defaults by a small number of customers who suffered large market losses. Neither firm had a sufficient level of capital to cover the defaults, ultimately leading to insolvency at both firms. NFA believes that its proposed increase in the minimum adjusted net capital requirement to $250,000 is necessary to protect against such FCM insolvencies.

On August 31, 1989, the NFA's FCM Committee issued a notice to its FCM and introducing broker ("IB") members

---

generally track Commission Regulation 1.17(c), each define adjusted net capital to equal net capital less various charges for, among other things, advances; inventory; open commitments; undermargined customer, non-customer and omnibus futures and options accounts; open futures positions and grantor commodity options in proprietary accounts; and, unsecured receivables.

[3] Currently, NFA's Financial Requirements section 1 requires that member FCMs maintain adjusted net capital equal to or in excess of the greater of $50,000 or 4 percent of the funds required to be segregated pursuant to the Act and the Commission's Regulations and the foreign futures or foreign options secured amount, less the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign board of trade, provided, however, the deduction for each customer is limited to the amount of customer funds in such customer's account and foreign futures and foreign options secured amounts.

CBOT Capital Rule 201's minimum adjusted net capital level is the same as NFA's except that CBOT also adds to the calculation "an amount equal to the guarantee deposits with clearing organizations, other than the [CBOT], which were included in the current assets under [Capital Rule 211], to the extent such deposits can not be used for margin purposes." CBOT Capital Rule 201 also establishes an alternative minimum adjusted net capital level for FCM/broker-dealers based upon the amount of net capital specified in Rule 15c3-1(a) of the regulations of the Securities and Exchange Commission ("SEC") (17 CFR 240.15c3-1(a)). Under both the NFA's and CBOT's proposals, the 4 percent of segregated funds measurement would remain unchanged.

[4] This Regulation was first adopted by the Commission's predecessor—the Commodity Exchange Authority—on March 17, 1969 when it established a working capital requirement of $10,000. In 1978, the Commission revised the Regulation to establish a net capital requirement of $50,000. 43 FR 39972 (September 8, 1978).

[5] Notably, the SEC also recently proposed to raise its minimum net capital requirement for broker/dealers holding customer funds to $250,000. Release No. 34-27249, 54 FR 40395 (October 2, 1989). That proposal is still under consideration.

[6] Volume of Futures Trading, Futures Industry Association, reprinted in Commodity Account Protection, a Study by the Division of Trading and Markets, Chart II (1985).

[7] Monthly Volume Report, Futures Industry Association (December 1988).

[8] Commodity Futures Trading Commission, Order Granting Registration and Approving Rules In the Matter of the Application of the National Futures Association at 21 (September 22, 1981).

[9] National Futures Association Monthly Report to the Commodity Futures Trading Commission (March 1990).

[10] Customer Account Protection Study, *supra* at 37.

[11] The CPI changed from 67.7 index points in December, 1976 to 125.9 index points in November, 1989. United States Department of Labor, Bureau of Labor Statistics.

[12] Section 17(b)(4) of the Act authorizes, and in fact requires, NFA to set standards governing the financial responsibility of its members. Section 17(b)(7) of the Act requires NFA to adopt rules designed to protect the public interest. In addition, Commission Regulations 1.52 and 170.1 require NFA to adopt minimum financial requirements for FCMs; Commission Regulation 170.5 requires NFA to establish and maintain a program for the protection of customers, including the adoption of rules to protect customer funds; and Commission Regulation 170.2 authorizes NFA, when necessary or appropriate in the public interest and to carry out the purposes of section 17 of the Act, to limit membership to firms having a particular level of capital assets.

[13] Prior to NFA's assumption of regulatory responsibility, the majority of FCM failures involved some sort of malfeasance by insiders of non-exchange members FCMs. Customer Account Protection Study, *supra* at 15–37.

[14] In the fourth insolvency case, customer losses of $1,500,000 are currently being projected. While NFA argues its proposed minimum adjusted net capital requirement should be high enough to minimize customer losses, it concedes that its proposal could not provide assurance against such losses.

seeking comments on the proposed adjusted net capital requirement. These comments were considered by NFA's Board of Directors when it adopted the subject proposed rules amendments at a December 7, 1989 Board meeting.

NFA received a total of twenty-three comments on the various proposed rule amendments. Sixteen of the comments were submitted by FCMs,[15] nine of which had $250,000 or more in minimum net capital and seven of which had less than $250,000 in minimum net capital. In addition, one comment was submitted by the Futures Industry Association; one comment was submitted by a certified public accountant; [16] one comment was submitted by an attorney [17] who represented three unnamed FCMs that could be affected by the proposal; two comments were submitted by attorneys in private practice; [18] one comment was submitted by NFA's IB Advisory Committee and one comment was submitted by an independent IB.[19]

NFA represented that most of the comment letters supported an increase in the minimum net capital requirements although some commented that $250,000 was too high.

B. Reporting Requirements and Early Warning Levels—CBOT Capital Rule 202 and NFA Financial Requirements Section 6

CBOT is proposing a new Capital Rule 202 and NFA is proposing an amendment to section 6 of its Financial Requirements to clarify the financial reporting requirements for their respective members FCMs.

CBOT's proposed new Capital Rule 202 would establish an early warning level at which member FCMs would be required to apprise the CBOT's Business Conduct Committee within five business days of reaching a predetermined low level of adjusted net capital. CBOT's adjusted net capital early warning level would be set at the lesser of $375,000 or 6% of the funds required to be segregated under section 4d of the Act or set aside under part 30 of the Commission's regulations (with certain other minor adjustments). The CBOT's proposed early warning level would be approximately 150% of the minimum adjusted net capital level which would be established by proposed CBOT Capital Rule 201.

Under NFA's proposed amendment to section 6 of its Financial Requirements, member FCMs would be required to give telegraphic notice to their DSRO within 24 hours of when they knew or should have known that their adjusted net capital was less than the amount required under revised section 1 of NFA's Financial Requirement. The proposed amendment to section 6 also would require an FCM to give notice to its DSRO whenever it was required to give notice to the Commission under Commission Regulation 1.12.[20]

NFA also proposes to revise the early warning level of section 6 at which member FCMs are required to apprise their DSROs of their lowered level of adjusted net capital. Currently, section 6 incorporates the requirement of Regulation 1.12(b).[21] Under NFA's proposal, the early warning level would be changed to $375,000 (150% of the proposed minimum adjusted net capital requirement) rather than $75,000 (150% of the NFA's current minimum adjusted net capital requirement).

NFA has stated that these changes are intended to increase the likelihood that NFA or the relevant DSRO would receive timely notice of events which could increase the risk of insolvency or provide a possible threat to the safety of customer funds. NFA argues that timely notice of such events would enhance the ability of the relevant DSRO to intervene to protect customer funds before they were lost.

C. Unsecured Loans and Subordination Agreements—CBOT Capital Rules 230, 250B(6) through (8), 251B, 251E and 251F and NFA Financial Requirements Schedules B and C

Various provisions in CBOT's Capital Rules and NFA's Financial Requirements Schedules B and C establish requirements for member FCMs which are based respectively on the CBOT's or NFA's current minimum adjusted net capital requirements. Both the CBOT and NFA have proposed similar amendments to these various provisions which would increase these financial requirements in direct proportion to the CBOT's and NFA's proposed increases to their respective minimum adjusted net capital requirements. The proposed amendments would be made to CBOT and NFA requirements regarding withdrawals from equity capital (CBOT Capital Rule 230 and NFA Financial Requirements section B2–a(ii)(A)) and subordination agreements (CBOT Capital Rules 250B (6) through (8), 251B, 251E, and 251F and NFA Financial Requirements section C1–b(vi)(C), C1–b(viii)(A), C2–b, C2–e and C2–f) made by members FCMs. CBOT and NFA each have proposed these amendments in order to reflect their proposed increases to their respective minimum adjusted net capital requirements.

III. Request for Comments.

The Commission requests comments on any aspect of CBOT's or NFA's proposed rule amendments that members of the public believe may raise issues under the Commodity Exchange Act or the Commission's regulations. The Commission particularly invites public comment as to the following questions:

1. Would approval of CBOT's and/or NFA's proposed minimum adjusted net capital requirements be consistent with section 15 of the Act which requires the Commission, in approving contract market and registered futures association rules, to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of the Act?

2. Are there any alternatives to CBOT's and/or NFA's proposals which would better address the problem of customer losses due to FCM insolvency?

3. NFA's Financial Requirements section 1 establishes a minimum adjusted net capital requirement for all members FCMs, regardless of whether the NFA member also is an exchange

---

[15] These FCM's were: (1) BNY Futures, Inc., (2) Bachus & Stratton Commodities, Inc., (3) B.W. Dyer and Company, (4) Empire Brokerage Services, Inc., (5) Frontier Futures, Inc., (6) Futures North, Inc., (7) Geisel Grain Co., (8) Iowa Grain Company, (9) JB Investments, Inc., (10) Klein & Co. Futures, Inc., (11) Mocatta Futures Corporation, (12) Northwest Futures Management, Inc., (13) SGD Commodities Corporation, (14) Shearson Lehman Hutton, (15) Sinclair and Company, and (16) WFC Options Corporation.

[16] Mr. John L. Manley of Touche Ross & Co.

[17] Ms. Debbie Pines, Esq.

[18] Mr. Edward R. Schroeder, Esq. of Lord Day & Lord, Barrett Smith and Mr. Theodore George Lindsay, Esq.

[19] CTA Services Ltd.

[20] Under Commission Regulation 1.12(a), and FCM knows or should have known that its adjusted net capital is less than the amount required by Commission Regulation 1.17 or by the capital rule of any self-regulatory organization to which such FCM is subject must give telegraphic notice to its DSRO and the Commission (and the SEC if the FCM is also a securities broker or dealer) within 24 hours.

[21] Commission Regulation 1.12(b) requires that an FCM file with the Commission a written notice, within 5 business days, whenever the FCM knows or should have known that its adjusted net capital is at any time less than $75,000 or 6% of the funds required to be segregated under section 4d of the Act and the Commission's regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer would be limited to the amount of customer funds in such option customer's account; or, (for securities brokers or dealers) the amount of capital specified in Rule 17a–11(b) of the Regulations of the SEC (17 CFR 240.17a–11(b)).

member. Should NFA amend this provision to apply to only those FCM members which are not members of any exchange?

4. Are there any other prudential measures that should be undertaken to address the problems raised by NFA?

Copies of both proposals will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, except to the extent that either subcommission may be entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314.

Any person interested in submitting written data, views or arguments on CBOT's and/or NFA proposed rule amendments or with respect to other materials submitted by CBOT and/or NFA in support of their respective submissions, should send such comments to Jean A. Webb, Secretary, Washington, DC 20581, by the specified date.

Issued in Washington, DC on June 5, 1990.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90–13404 Filed 6–8–90; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number:

Notice to Mariners Information and Suggestion Sheet; HTC Form 8260–3; 0704–0211.

Type of Request: Renewal.

Average Burden Hours/Minutes per Response: 15 minutes.

Frequency of Response: One response per respondent.

Number of Respondents: 1,000.

Annual Burden Hours: 250.

Annual Responses: 1,000.

Needs and Uses: This voluntary form is used for Information Gathering Operation (Or Data Collection Operation) to be investigated by Information Processing Operation-part of Information Service Operation to fulfill mission in Marine Safety. Supplied by Mariners, as needed, to keep marine information products and service up-to-date for navigation safety.

Affected Public: Individuals or households; State or local governments; business or other for-profit; Federal agencies or employees; Non-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302.

Dated: May 31, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–13378 Filed 6–8–90; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number:

Oceanic Sounding Report, HTC Form 8053–1, OMB no. 0704–0208.

Type of Request: Renewal.

Average Burden Hours/Minutes per Response: 5 hours.

Frequency of Response: One or more responses per respondent.

Number of Respondents: 80.

Annual Burden Hours: 400.

Annual Responses: 80.

Needs and Uses: This voluntary form provides instructions and outlines information needed for ship data collection operations of bathymetric data to be used in the construction of nautical charts. The users of this form are the users of the affected charts.

Affected Public: Businesses or other for-profit; Federal agencies or employees.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: May 31, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–13379 Filed 6–8–90; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, applicable form, and applicable OMB control number:

Port Information Report, HTC Form 8330–1, OMB number 0704–0210.

Type of request: Revision.

Average burden hours/minutes per response: 30 Minutes.

Frequency of response: One response per respondent.

Number of respondents: 104.

Annual burden hours: 54.

Annual responses: 104.

Needs and uses: This voluntary form is submitted in the interest of Marine safety submitted by military vessels and ships. Information is submitted occasionally and voluntarily whenever navigators wish to provide updating material to DMA for navigational safety publications. DMA evaluates the incoming data and incorporates it into future editions of its navigation products.

Affected public: Individuals or households; State or local governments;

business or other for-profit; Federal agencies or employees; Non-profit institutions.

Frequency: On occasion.

Respondent's obligation: Voluntary.

OMB desk officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD clearance officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

May 31, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-13387 Filed 6-8-90; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Renewal of the Defense Information School Board of Visitors

SUMMARY: Under the provisions of Public Law 92-463, "Federal Advisory Committee Act," notice is hereby given that the Defense Information School Board of Visitors has been determined to be necessary and in the public interest, and is being renewed.

The Defense Information School Board of Visitors provides advice to the Assistant Secretary of Defense (Public Affairs) and the Secretary of Defense regarding promoting excellence in public affairs training. The Board is an external source of journalistic expertise which acts as an important bridge between the Defense Information School and the media professional communities, and ensures continued reflection on the objectives, operations, and policies of the school.

Special efforts are made to ensure that the Board has a well-balanced membership comprised of members drawn from the journalistic and media communications fields, from diverse sectors such as, academic institutions, public media research firms, network news companies, and national newspapers.

May 30, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-13386 Filed 6-8-90; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Advisory Board, Meeting

AGENCY: Defense Intelligence Agency Advisory Board, DOD.

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92-463, as amended by section 5 of Public Law 94-409, notice is hereby given that closed meetings of a panel of the DIA Advisory Board have been scheduled as follows:

DATES: Thursday, June 21, 1990 (8:30 a.m. to 5 p.m.); Wednesday, July 25, 1990 (8:30 a.m. to 5 p.m.); Wednesday, August 22, 1990 (8:30 a.m. to 5 p.m.).

ADDRESSES: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Chief, DIA Advisory Board Office, Washington, DC 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meetings are devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Counternarcotics.

May 30, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-13385 Filed 6-8-90; 8:45 am]

BILLING CODE 3810-01-M

Advisory Group on Electron Devices; Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, 21 June 1990.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 2011 Crystal Drive, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The Microelectronics area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Public Law No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

May 30, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-13381 Filed 6-8-90; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Advanced Naval Warfare Concepts; Meeting

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Advanced Naval Warfare Concepts will meet in closed session on June 19, 1990, at the Center for Naval Analyses, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will examine advanced naval warfare concepts and assess relevant technology, equipment, and modernization plans.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5

U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

May 30, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–13383 Filed 6–8–90; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Technology and Technology Transfer Policy

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Technology and Technology Transfer Policy will meet in closed session on July 6–7, 1990 at the Analytical Sciences Corp., 1101 Wilson Blvd., Arlington, VA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will receive classified briefings on DoD technology programs and activities and discuss intelligence estimates on various defense related technologies.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

May 30, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–13382 Filed 6–8–90; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Chemical Weapons Policy; Meeting

ACTION: Notice of advisory commitee meeting.

SUMMARY: The Defense Science Board Task Force on Chemical Weapons Policy will meet in closed session on 11 June, 1990, at the Pentagon, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will receive intelligence briefings and examine chemical weapons verification technologies.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1982), and that accordingly this meeting will be closed to the public.

May 30, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–13384 Filed 6–8–90; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 1, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee on Science and Technology (S&T) Broad Program Appraisal (BPA) will meet on 28 Jun 90 from 8 a.m. to 5 p.m. at the Pentagon, Washington, DC 20330–5430.

The purpose of this meeting is to review the technology area plans for the programs in the Air Force S&T base. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United State Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–13401 Filed 6–8–90; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 28–29 June 1990.

Time: 1000–1500.

Place: Pentagon.

Agenda: The Army Science Board (ASB) Summer Study on Reduction of Operations and Support (O&S) Cost will meet to assimilate the panel findings and begin constructing the final report. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 90–13389 Filed 6–8–90; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Naval Research Advisory Committee Panel on Suppression of Enemy Fighter Defenses Over Land in the Year 2000 and Beyond will meet on June 25–27, 1990, at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. The meeting will commence at 8 a.m. and terminate at 5 p.m. on June 25; and commence at 8 a.m. and terminate at 4 p.m. on June 26 and 27, 1990. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the panel members related to the ability of U.S. naval forces to suppress enemy fighter defenses over land in support of strike operations, or ground operations in the year 2000 and beyond. The agenda will include briefings and discussions of technology updates, industry perspectives, tactics and deficiencies. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander John Hrenko, *U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number: (202) 696–4488.*

Dated: June 7, 1990.

Sandra M. Kay,

Alternate Federal Register, Liaison Officer.

[FR Doc. 90-13580 Filed 6-8-90; 8:45 am]

BILLING CODE 3810-AE-M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 90-6]

Criticality Safety at the Department of Energy's Rocky Flats Plant, CO

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice; recommendation.

SUMMARY: The Defense Nuclear Facilities Safety Board has made recommendations to the Secretary of Energy pursuant to section 312(5) of the Atomic Energy Act of 1954, as amended concerning criticality safety at DOE's Rocky Flats Plant, CO. The Board requests public comments on these recommendations.

DATES: Comments, data, views, or arguments concerning the recommendations are due on or before July 11, 1990.

ADDRESSES: Send comments, data, views, or arguments concerning the recommendations to: Defense Nuclear Facilities Safety Board, 600 E Street, NW., Suite 675, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri, at the address above or telephone 202/376-5083, (FTS) 376-5083.

Dated: June 5, 1990.

Kenneth M. Pusateri,

General Manager.

[Recommendation 90-6]

Criticality Safety at the Department of Energy's Rocky Flats Plant, CO

Dated: June 5, 1990.

The subject of criticality safety at Rocky Flats has been previously examined by Scientech, Inc., and reported in "An Assessment of Criticality Safety at the Department of Energy's Rocky Flats Plant" and subsequent follow-up activities and reports. Criticality safety has also been examined by the DOE and its Rocky Flats Plant operating contractor.

It is noted that data used in the preparation of the reports by Scientech, Inc. and in subsequent plant examinations were developed through the use of non-destructive assay techniques to determine if fissile materials have accumulated in ventilation ducts and associated systems. These efforts resulted in the determination that fissile materials have accumulated in certain portions of these systems. In addition, other more recent physical studies have confirmed fissile and other undefined debris exist in the ducts. Plant personnel are presently continuing efforts to measure the quantity and concentration of plutonium and other debris in the ducts as well as its form and physical consistency. As of this time, full characterization of the situation by DOE and its contractors has not been completed; hence, all specific remediation measures have not yet been determined.

The Board recommends that prior to resumption of plutonium operations at the plant that DOE prepare a written program with commitments to address the accumulation of fissile and other materials in ventilation ducts and related systems. The short-term objective of the program should be to ensure that a criticality accident would not take place and that the presence of fissile and other materials in the ducts would not result in an undue risk to the health and safety of the public, including on site personnel. The remainder of the program should ensure that the accumulated fissile material and other debris in the ventilation and associated systems will be properly removed or substantially reduced in amount and concentration in the longer term, but as soon as reasonably possible. The program should address priorities of specific actions and include an assessment of criticality safety for affected individual lines, systems, or components. The basis for the actions and any time-phased programs should be presented. This program should address and include the following:

- Description of remediation actions, including the scheduling and basis for same, that are deemed necessary prior to resumption of plutonium operations by DOE.
- Descriptions and justification of non-destructive assay techniques, calibration, modeling, and assay methodology.
- Estimation of radiation levels in areas of occupany, both from gamma rays and fast neutrons.
- Determination of the effects of accumulation of fissile and other materials on the functionability of the ventilation ducts and related systems which must act to protect the health and safety of the public, including plant operating personnel.
- Description and justification of procedures and schedules, both short-term and long-term, for removal or reduction in amount and concentration of existing fissile and other unidentified debris in the ventilation ducts and related systems, as stated above.
- Determination of any design and operational changes in the ventilation ducts and related systems necessary to prevent further accumulation of significant amounts of fissile and other materials therein and to ensure continued operability of systems installed to protect the health and safety of the public including plant operating personnel. This includes a thorough study of the glovebox filters and ventilation and alarm systems.
- Establishment of a monitoring program for the ventilation ducts and related systems to establish that design and operational changes and modifications are effective in preventing significant additional accumulation of fissile and other materials.

John T. Conway,

Chairman.

Appendix—Transmittal Letter to the Secretary of Energy

June 5, 1990

Honorable James D. Watkins

Secretary of Energy, Washington, DC 20585

Dear Mr. Secretary: On June 4, 1990, the Defense Nuclear Facilities Safety Board, in accordance with Section 312(5) of the Atomic Energy Act of 1954, as amended, 42 U.S.C.A. Section 2286a(5), approved a recommendation which is enclosed for your consideration.

42 U.S.C.A. Section 2286d(a) requires the Board, after receipt by you, to promptly make this recommendation available to the public in the Department of Energy's regional public reading rooms as soon as possible.

The Board will publish this recommendation in the Federal Register.

You will note that the Board has recommended preparation of a written program to address accumulation of materials in the ventilation ducts and related systems, and prior to resumption of plutonium operations. When this program is completed, the Board wishes to be informed.

Sincerely,

John T. Conway,

Chairman.

Enclosure

[FR Doc. 90-13398 Filed 6-8-90; 8:45 am]

BILLING CODE 6820-KD-M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: Department of Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive

Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the open portion of the meeting.

DATES: June 22, 1990.

TIME: 11 (E.D.T.) to 11:30 a.m. (open); 11:30 a.m. until adjournment (closed).

LOCATION: U.S. Department of Education, National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC 20005–4013.

FOR FURTHER INFORMATION CONTACT: Roy Truby, Executive Director, National Assessment Governing Board, U.S. Department of Education, 1100 L Street, NW., suite 7322, Washington, DC 20005–4013. TELEPHONE: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297); (20 USC 1221e–1).

The Board is established to advise the Commissioner for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting age and grade tested, and establishing standards and procedures for interstate and national comparisons.

The Executive Committee of the National Assessment Governing Board will meet via teleconference in Washington, DC on June 22, 1990, from 11 a.m. (E.D.T.) until the completion of business. Because this is a teleconference meeting, facilities will be provided so the public will have access to the open portion of the Committee's deliberations. These facilities will be provided in the location listed in the portion of this notice titled "Location." The Committee will convene in open session beginning at 11 a.m. and ending at 11:30 a.m. for roll call and introductory remarks. From 11:30 a.m. to adjournment, the meeting will be closed under the authority of 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2). During the closed portion, the Committee will approve the final selection of members for the achievement level setting panel. Discussion during the closed portion is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and relate solely to the internal personnel rules and practices of an agency. Such matters are protected under exemptions (2) and (6) of 5 U.S.C. 552b(c).

A summary of the activities at the closed session and related matters, which are informative to the public consistent with the policy of 5 U.S.C. 552b, will be available to the public within fourteen days after the meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, 1100 L Street, NW., suite 7322, Washington, DC from 8:30 a.m. to 5 p.m.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 90–13420 Filed 6–8–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Preparation of a Supplemental Environmental Impact Statement for the Construction and Operation of the Superconducting Super Collider

AGENCY: Department of Energy.

ACTION: Notice regarding preparation of a Supplemental Environmental Impact Statement for the construction and operation of the Superconducting Super Collider.

SUMMARY: The U.S. Department of Energy (DOE) announces it has begun preparation of a supplement to the *Environmental Impact Statement (EIS), Superconducting Super Collider (SSC)*, December 1988 [DOE/EIS–0138], (1988 EIS). The purpose of the Supplemental EIS (SEIS) is to analyze further the impacts from construction and operation of the SSC at the Ellis County, Texas site based on site-specific design, and to assess altenative measures to mitigate potentially adverse impacts.

The SEIS is being prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended, the Council on Environmental Quality (CEQ) NEPA regulations [40 CFR parts 1500–1508] and the DOE NEPA guidelines [52 FR 47662].

ADDRESSES: Persons requesting additional information regarding the SSC project should contact: Mr. G. John Scango, Office of Superconducting Super Collider (ER–90), Office of Energy Research, U.S. Department of Energy, Washington, DC 20545, (301) 353–6580.

For general information on the NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Project Assistance (EH–25), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–4600.

FOR FURTHER INFORMATION CONSULT: SSC technical and design reports, the 1988 EIS, and other background information on the SSC project may be found at the DOE Public Reading Room and the public libraries listed below:

DOE Reading Room

U.S. Department of Energy, Freedom of Information Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6020.

Public Libraries

Sims Library, 515 West Main Street, Waxahachie, Texas 75165, (214) 937–2671.

Ennis Public Library, 501 West Ennis Avenue, Ennis, Texas 75119, (214) 875–5360.

SUPPLEMENTARY INFORMATION: On January 18, 1989, DOE issued a Record of Decision (ROD) to proceed with the SSC project and selected the Texas site as the location for the facility (54 FR 3651). The Texas site is located in Ellis County, about 25 miles south of Dallas and 35 miles southeast of Fort Worth. The ROD also committed DOE to preparation of the SEIS.

The SSC will be the world's largest particle accelerator. The SSC will include a collider ring tunnel about 54 miles in circumference, laboratory facilities housed in a campus area and various access and service areas located around the collider ring.

The Texas site offers the potential for flexibility in adjusting the location of surface facilities along the collider ring, both for technical requirements and for mitigation of adverse impacts. The SEIS will identify and assess site-specific impacts from the proposed layout and facility design, and potential alternatives thereto. The SEIS also will consider the impacts of the construction of ancillary facilities, such as access roads and utility lines, and disposal of tunnel spoils.

In accordance with 10 CFR 1022.12, an assessment of site-specific impacts to floodplain and wetland areas potentially affected by the SSC will be included in the SEIS. DOE will modify the final design of the facility to avoid floodplain

and wetland areas to the extent practicable.

The SEIS will address those issues identified in the 1988 EIS as needing further site-specific review. These issues include (but are not limited to):

- Geologic conditions.
- Surface water runoff.
- Floodplain encroachment.
- Wetlands.
- Water quality and use.
- Ground water.
- Air quality.
- Noise and vibration.
- Waste disposal and transportation.
- Ecology, including threatened and endangered species.
- Health effects, including those caused by fire ants.
- Land use changes.
- Socioeconomic conditions.
- Scenic and visual resources.
- Cultural resources.

Under the current schedule, DOE intends to issue a draft of the SEIS in late summer 1990. Public review and comment on the draft will be invited at that time.

DOE plans to hold public hearings on the draft at a location near the Texas site. DOE intends to issue a final SEIS by late fall 1990, followed by a Record of Decision which will be issued no earlier than 30 days after EPA publishes a notice of the availability of the final SEIS.

DOE is compiling a mailing list of parties who may be interested in receiving the SEIS. The list includes applicable Federal, state and local agencies; potentially affected landowners; and national interest organizations. Individuals who would like to receive a copy of the draft SEIS should contact the DOE Energy Research Office, at the address given above as soon as possible.

Documents are available for inspection during normal office hours. For information on hours and availability, please contact the reading room or library.

Issued in Washington, DC, on June 5, 1990.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 90-13433 Filed 6-8-90; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent to Award Grant to the Puraq Co.

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.7(b)(2)(D), it is making a financial assistance award under Grant Number DE-FG01-90CD15993 to the Puraq Company to assist in the "construction and operation of a 200-ton chiller for industrial applications and district cooling."

SCOPE: This grant will aid in providing funding in the amount of $93,500 for continuation of construction of the 200-ton chiller to be constructed at Clarkson University in Potsdam, New York. The refrigeration industry is at a crosswalk because of impending restrictions on the production of Freon refrigerants, which are destructive to the atmosphere's ozone layer and which constitute the working fluids for most refrigeration applications. Much research and development is underway to identify and evaluate suitable alternatives to Freon. The Puraq process does not use Freon which contributes very significantly to its market potential. The Puraq system is non-corrosive, providing for maintenance-free operations.

ELIGIBILITY: Eligibility for this award is being limited to the Puraq Company. Dr. Leon Lazare owns the invention and will be the custom designer of this or any other refrigeration absorption facilities based on the invention. Mr. Gerry Gonyea, resident engineer assigned by Clarkson University has been in charge of plant engineering for 40 years. It has been determined that this project has high technical merit representing an innovative technology that has a strong possibility of adding to the national energy resources.

The term of this grant shall be for 18 months from the effective date of award.

Thomas S. Keefe,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 90-13434 Filed 6-8-90; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award to the Yakima Indian Nation

AGENCY: U.S. Department of Energy (DOE), Richland Operations Office.

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: The DOE, Richland Operations Office, Environmental Restoration Division in accordance with 10 CFR 600.7(b)(2), gives notice of its plan to award a noncompetitive grant to the Yakima Indian Nation (YIN). Under the terms of the award, the YIN will conduct activities related to the protection of YIN treaty rights which may be impacted by activities associated with DOE's environmental restoration activities at the Hanford Site. This award implements elements of the DOE Five-Year Plan recognizing DOE's commitment to the participation of affected Indian tribes in the planning and implementation of the Five-Year Plan.

DOE has determined that award on a noncompetitive basis is appropriate because the recipient is a unit of government and the activities to be supported are related to the performance of governmental functions within the jurisdiction of that unit of government, thereby precluding DOE provision of support to another entity. Since the award relates to agreements and treaties already made between the United States Government and the YIN, it would clearly be inappropriate for DOE to consider funding any other entity to be responsible for carrying out these activities. DOE and the YIN will negotiate the final amount of the grant, which will not exceed $341,000.

FOR FURTHER INFORMATION CONTACT: Marcia N. Roske, U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352, Telephone: (509) 376-7265.

Robert D. Larson,

Director, Procurement Division, Richland Operations Office.

[FR Doc. 90-13438 Filed 6-8-90; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Petroleum Council.

Date and Time: Thursday, June 28, 1990, 9 a.m.

Place: The Madison Hotel, Dolley Madison ballroom, 15th & M Streets, NW., Washington, DC.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585, Telephone: 202/586-4695.

Purpose: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industry.

Tentative Agenda

—Call to order by Lodwrick M. Cook, Chairman, National Petroleum Council.
—Remarks by Admiral James D. Watkins, USN (Ret), Secretary of Energy.
—Guest Speaker.
—Status report of the NPC Committee on Emergency Preparedness.

—Consideration of administrative matters.
—Discussion of any other business properly brought before the National Petroleum Council.
—Public comment (10-minute rule).
—Adjournment.

Public Participation: The meeting is open to the public. The chairperson of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC., between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, DC., on June 6, 1990.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 90–13435 Filed 6–8–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–13–NG]

Kimball Energy Corp.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting a blanket authorization to import natural gas from canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting Kimball Energy Corporation (Kimball) blanket authorization to import natural gas from Canada. The order issued in FE Docket No. 90–13–NG authorizes Kimball to import from Canada, using existing facilities, up to 75 Bcf of natural gas for short-term and spot sales over a two-year term beginning the date of first delivery. The order would extend Kimball's existing blanket import authority granted in DOE/ERA Opinion and Order No. 190 issued August 19, 1987.

A copy of the order is available for inspection and copying at the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, (202) 586–9478. The Docket room is open between the hours of 8 a.m. and 4:30 p.m., Mondy through Friday, except Federal holidays.

Issued in Washington, DC, June 5, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary, for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–13395 Filed 6–8–90; 8:45 am]

BILLING CODE 6450–01–M

Certification of the Radiological Condition of Eighteen Vicinity Properties Located in Colonie and Albany, NY

AGENCY: Office of Environmental Restoration and Waste Management, Department of Energy.

ACTION: Notice of certification.

SUMMARY: The Department of Energy has completed radiological surveys and undertook a decontamination research and development project to decontaminate 18 properties in Colonie and Albany, New York. The properties were found to contain quantities of radioactive material from uranium processing activities conducted at the former National Lead (NL) Industries Plant. Decontamination was completed under the Formerly Utilized Sites Remedial Action Program (FUSRAP). Excavated contaminated materials are being stored at the original manufacturing plant site, now referred to as the Colonie Interim Storage Site (CISS). Radiological conditions at the properties are certified to be in accordance with applicable radiological guidelines for the protection of the public or property occupants.

FOR FURTHER INFORMATION CONTACT: James J. Fiore, Acting Director, Decontamination and Decommissioning Division, Office of Environmental Restoration and Waste Management (EM–423), U.S. Department of Energy, Washington, DC 20545, 301–353–2802.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE), Office of Environmental Restoration and Waste Management, has implemented a decontamination research and development project (the project) in the Albany and Colonie, New York, area. This project initially was authorized by Congress in the Energy and Water Development Appropriations Act for fiscal year 1984. Congress extended this authorization in the Energy Water Development Appropriation Acts for subsequent fiscal years. The ultimate objective of the project is to ensure that any properties contaminated as a result of activities at the former National Lead (NL) Industries facility can be certified to be within current applicable radiological guidelines for the protection of the public or property occupants.

Colonie Interim Storage Site (CISS) is a DOE Formerly Utilized Sites Remedial Action Program (FUSRAP) site located in the Town of Colonie, New York, at 1130 Central Avenue. It is approximately 6.44 km (4 mi.) northwest of downtown Albany and about 4.83 km (3 mi.) southeast of the Village of Colonie. Central Avenue runs along the northeastern side of the CISS property; the Conrail main line and a railroad siding border it on the southern side. Residential properties lie beyond the railroad. Most of the 4.53-ha (11.2-acre) CISS was occupied by the former NL Industries, Inc., property and buildings formerly used by NL to manufacture a variety of projects from depleted uranium. The remaining 0.81 ha (2 acres) of the site, donated to DOE by the Niagara-Mohawk Power Corporation in 1985, lie to the west of the original property. Land use in the vicinity of CISS is primarily industrial and residential.

During the 1950s, NL began manufacturing uranium products at its Colonie plant, operating under a license issued by the Atomic Energy Commission (AEC) a statutory predecessor of DOE. Between 1958 and 1968, NL held numerous AEC contracts for the fabrication of slightly enriched (in the uranium-235 isotope) uranium fuel elements and chemical processing of nonirradiated, slightly enriched uranium scrap. After termination of the AEC contracts, work at the NL plant was limited to fabrication of shielding components, ballast weights, and projectiles from depleted uranium.

On February 15, 1980, the New York Supreme Court issued an order temporarily restraining NL from operating its Colonie facility because the facility released uranium compounds into the air. The temporary restraining order was amended on May 12, 1980, to allow NL to continue operating on a limited basis. The amended order also required the company to initiate an independent investigation to assess all adverse environmental conditions in soils and on properties in the vicinity of the facility that may have been caused by the airborne discharge of radioactive particulates from the plant. Operations at the plant were halted in the spring of 1984. These "vicinity properties" were included as part of FUSRAP by DOE after Congress initially authorized DOE in the Energy and Water Development Appropriations Act for Fiscal Year 1984

to conduct a decontamination research and development project at four sites in New York, New Jersey, and Missouri, including the site of the former NL plant and its vicinity properties. Following plant closure, DOE took possession of the plant to begin the cleanup process. Most of the radioactive contamination on the vicinity properties is from airborne releases of uranium from the processing operations at the plant. FUSRAP is currently being managed by DOE's Oak Ridge Operations Office.

Bechtel National, Inc. (BNI) is the project management contractor (PMC) and acts as DOE's contractor in the planning, management, and implementation of FUSRAP. Acting as PMC, BNI has responsibility for conducting project activities at CISS as well as at the off-site or vicinity properties.

Teledyne Isotopes surveyed the neighborhood surrounding the NL plant for radioactivity in 1980 and determined that urnaium released into the air through the emission stacks had been deposited on residential and commercial properties and structures. Teledyne's findings also showed that the majority of the contamination was to the northwest and southeast (i.e., in the direction of the prevailing winds).

In October 1983, more detailed radiological surveys of the individual properties surrounding the NL plant (including private residences) were performed by Oak Ridge National Laboratory (ORNL). These surveys were designed to locate all properties on which uranium contamination exceeded applicable radiological guidelines.

DOE developed a plan to remove the contamination in these areas. The priority for the decontamintion was first to remove contaminated materials from residential properties, and then from commercial properties. These materials were to be stored at CISS.

Decontamination was conducted at 11 vicinity properties during 1984 and at 24 in 1985. In 1988, decontamination was conducted at 16 of the remaining properties; however, during 1988 two additional properties (4 Maplewood Avenue and 16 Yardboro Avenue) were identified as being contaminated and were subsequently designated and decontaminated. This bring the total number of vicinity properties to 55, and the total number remediated in 1983 to 18. Additionally, one other property is suspected to be contaminated but has not yet been surveyed or designated. Three remaining properties border the site and will be decontaminated when decontamination is conducted at CISS.

The certification docket will be available for review between 9 a.m. and 4 p.m., Monday through Friday (except Federal holidays) in the DOE Public Reading Room located in room 1E–190 of the Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. Copies wioll also be available in the DOE Public Document Room at the Oak Ridge Operations Office, Oak Ridge, Tennessee, and the Colonie Library, 629 Albany-Shaker Road, Loudonville, New York.

The Department of Energy, through the Oak Ridge Operations Office, Technical Services Division, has issued the following statement:

Statement of Certification: Eighteen Properties Associated with the Former National Lead Industries Activities in Colonie and Albany, New York.

The Oak Ridge Operations Office, Technical Services Division, has reviewed the radiological data obtained following decontamination at the 18 subject properties. Based on this review, DOE has certified that the properties listed below are in compliance with applicable radiological guidelines for the protection of the public and property occupants.

The properties listed by their street addresses, as identified in the radiological characterization survey reports prepared by ORNL. Accordingly, the following properties are released from FUSRAP:

Exit 4, I–90 Right-of-Way Property, City of Albany, described in Right-of-Way maps M417, page 484; M416, page 483; M415, page 482; M414, page 481; M414, page 480; M449, page 519; M423, page 490; and M–1–C, page 587.

1101 Central Avenue, Town of Colonie, described in the deed, book 634, page 304 and book 614, page 112.

1110 Central Avenue, City of Albany, described in the deed, liber 1170, page 430 in the Town of Colonie and liber 1170, page 395 in the City of Albany.

1143 Central Avenue, Town of Colonie, described in the deed, liber 2318, page 515.

1145 Central Avenue, Town of Colonie, described in the deed, liber 2165, page 353.

1149 Central Avenue, Town of Colonie, described in the deed, liber 1965, page 339.

1177 Central Avenue, Town of Colonie, described in the deed, book 1870, pages 223–233 and book 994, page 408.

1178 Central Avenue, Town of Colonie, described in the deed, book 1240, page 455.

1200 Central Avenue, Town of Colonie, described in the deed, liber 2241, page 637 and liber 1387, page 355.

10/14 Kraft Avenue, Town of Colonie, described in the deed, liber 2323, page 1.

4 Maplewood Avenue, Town of Colonie, described in the deed, liber 2080, page 305.

Niagara-Mohawk Property, Railroad Avenue, Town of Colonie, described in the deed, book 915, page 251.

10 N. Elmhurst, Town of Colonie, described in the deed, 2185, page 1001.

Crannell Property, Railroad Avenue, Town of Colonie, described in the deed, liber 2107, page 617.

1 Reynolds Avenue, Town of Colonie, described in the deed, 2314, page 164.

16 Yardboro Avenue, City of Albany, described in the deed, liber 2205, page 256.

20 Yardboro Avenue, City of Albany, described in the deed, liber 1488, page 213.

80–110 Yarboro Avenue, City of Albany, described in the deed, liber 2037, page 991, and liber 2302, page 361.

Dated: May 23, 1990.

R.P. Whitfield,

Associate Director, Office of Environmental Restoration.

[FR Doc. 90–13436 Filed 6–8–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3786–2]

State Water Quality Standards, Virginia

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed amendment of final listing decisions for the Commonwealth of Virginia under section 304(1) of the Clean Water Act.

SUMMARY: Notice is hereby given of the United States Environmental Protection Agency's (U.S. EPA) proposed decision to amend the final listing decisions for the Commonwealth of Virginia under section 304(1) of the Clean Water Act as amended by the Water Quality Act of 1987. This proposed decision is to delete the Westvaco Corporation's Covington Mill from the 304(1)(1)(C) list and the Jackson River, its receiving stream, from the 304(1)(1)(B) list. Comments concerning this proposed decision must be received on or before July 11, 1990.

DATES: Comments are due on or before July 11, 1990.

ADDRESSES: Comments should be submitted to the address given below. The administrative record containing the U.S. EPA's documentation supporting its proposed amendment to the final lists will be on file and may be inspected at the U.S. EPA Region III office between the hours of 9 a.m. and 4 p.m., Monday through Friday except holidays. To make arrangements to examine the administrative record contact the person named below.

Thomas Henry (3WM53), Permits Enforcement Branch, U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107, telephone (215) 597–8243, (FTS) 597–6243.

SUPPLEMENTARY INFORMATION: Section 304(1)(3) of the Clean Water Act (CWA)

as amended by the Water Quality Act of 1987 requires the Administrator to implement the requirements of section 304(1)(l) by June 4, 1990, if the Administrator does not approve the state's decisions with respect to waters, point sources, or individual control strategies (ICS's). The CWA further requires the U.S. EPA to accept petitions to add waters to the lists and take public comment for a 120 day period on the proposed approvals and disapprovals of lists of waters, point sources, pollutants for which the waters and point sources were listed and individual control strategies submitted by the states. The public comment period closed on October 4, 1989. Any comment or petition received after that date and prior to the final decision was considered as the Agency's time and resources permitted.

Following the close of the comment period the Regional Administrator considered the comments and petitions and issued a response to those comments and petitions regarding the Commonwealth of Virginia, which was made available to the public by notice in the **Federal Register** on March 28, 1990, at which time the final decision was published.

Today's proposed decision is to amend the final list to delete Westvaco's Covington Mill from the 304(1)(l)(C) list and the receiving stream, the Jackson River, from the 304(1)(l)(B) list. This proposed decision was based on EPA Region III's discovery subsequent to March 20, 1990, that Westvaco had submitted information to an EPA Headquarters Office prior to the end of the comment period which was not considered in the March 20th decision. This information indicated that the discharge from the Westvaco Covington Mill would not cause the receiving stream, the Jackson River, to exceed the applicable water quality standard for dioxin. Since this information was available during the comment period and the Agency believes that is supports a determination that Westvaco's discharge will not cause the receiving stream to exceed the applicable water quality standard for dioxin, EPA Region III proposes to remove Westvaco's Covington Mill and the Jackson River from the 304(1)(l)(C) and (B) lists, respectively.

EPA is accepting comments concerning this decision for thirty days from June 11, 1990. EPA will provide written response to significant comments which will be available to the public in the administrative record. EPA will publish a final decision concerning this proposed amendment after consideration of all comments received.

If EPA determines that Westvaco's Covington Mill should be removed from the 304(1)(l)(C) list, no ICS will be required for the mill. EPA favorably notes, however, that Westvaco has requested from the Commonwealth of Virginia a modification to its National Pollutant Discharge Elimination System permit to include a limitation for dioxin. Effluent limitations are established to protect the ambient water quality of the receiving stream.

Dated: May 31, 1990.

Edwin B. Erickson,

Regional Administrator, EPA Region III.

[FR Doc. 90-13441 Filed 6-8-90; 8:45 am]

BILLING CODE 6560-50-M

EXPORT-IMPORT BANK OF THE UNITED STATES

Open Meeting of the Advisory Committee of the Export-Import Bank of the United States

SUMMARY: The Advisory Committee was established by Public Law 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

TIME AND PLACE: Tuesday, June 26, 1990, from 9:30 a.m. to 12:00 noon. The meeting will be held at Eximbank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

AGENDA: The meeting agenda will include a discussion of the following topics: Financial Report, Congressional Report, Arrangement/Tied Aid Credit Status, Competitiveness Report Review, Issues Overview, Subcommittees Review (Foreign Content, Small Business, International Issues, and External Delegated Authority), and other topics.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 15 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank of arrange suitable accommodations, members of the public who plan to attend the meeting should notify Joan P. Harris, Room 935, 811 Vermont Avenue, NW., Washiington, DC 20571, (202) 566-8871, not later than June 25, 1990. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to June 21, 1990, the Office of the Secretary, room 935, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 566-8871 or TDD: (202) 535-3913.

Further Information: For further information, contact Joan P. Harris, Room 935, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 566-8871.

Joan P. Harris,

Corporate Secretary.

[FR Doc. 90-13552 Filed 6-8-90; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

June 5, 1990.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW, suite 140, Washington, DC 20037. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Eyvette Flynn, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: 3060-0396

Title: Section 21.910, Special Procedures for Discontinuance, Reduction or Impairment of Service by Common Carrier MDS Licensees

Action: Extension

Respondents: Businesses or other for-profit (including small businesses)

Frequency of Response: On occasion

Estimated Annual Burden: 10 Responses; 8 Hours

Needs and Uses: Section 21.910 requires the MDS licensee who has elected common carrier status and who seeks to discontinue service as a common carrier and instead provide service as a non-common carrier or who otherwise intends to reduce or impair services, to notify the affected customers and the Commission of such action. Information is used by the Commission to monitor the impact of discontinued, reduced or impaired service.

OMB Number: 3060.0161

Title: Section 73.61, AM Directional Antenna Field Strength Measurements
Action: Extension
Respondents: Businesses or other for-profit (including small businesses).
Frequency of Response: Recordkeeping requirement
Estimated Annual Burden: 1,852 Recordkeepers; 30,854 Hours
Needs and Uses: Section 73.61 requires that AM stations with directional antennas make field strength measurements and partial proofs of performance. Data used by licensees to ensure adequate interference protection is maintained and that antenna is operating properly. Data used by FCC staff in field inspections/investigations.

OMB Number: 3060–0214
Title: Section 73.3526, Local Public Inspection File of Commercial Stations
Action: Extension
Respondents: Businesses or other for-profit (including small businesses)
Frequency of Response: Recordkeeping requirement.
Estimated Annual Burden: 10,380 Recordkeepers; 1,079,520 Hours
Needs and Uses: Section 73.3526 requires such licensee/permittee of an AM, FM or TV broadcast station to maintain a file for public inspection. The contents of the file vary according to the type of service and status. The contents include, but are not limited to, copies of certain applications tendered for filing, a statement concerning petitions to deny files against such applications, copies of ownership reports and annual employment reports, statements certifying compliance with filing announcements in connection with renewal applications, etc. Data is used by the public and FCC staff to evaluate information about the licensee's performance and to ensure that the station is addressing issues concerning the community to which it is licensed to serve.

OMB Number: 3060–0215
Title: Section 73.3527, Local Public Inspection File of Noncommercial Educational Stations
Action: Extension
Respondents: Non-profit institutions
Frequency of Response: Recordkeeping requirement
Estimated Annual Burden: 1,812 Recordkeepers; 188,448 Hours.
Needs and Uses: Section 73.3527 requires that each noncommercial educational broadcast station licensee/permittee maintain a file for public inspection. The contents of the file vary according to type of service and status. The contents include the same as noted in § 73.3526 above, and additionally, a list of donors supporting specific programs, etc. Also, § 73.3527(a)(7) requires that each broadcast licensee of a noncommercial educational station place in a public inspection file a list of community issues addressed by the station's programming. This list is kept on a quarterly basis and contains a brief description of how each issue was treated. Data is used by the public and FCC staff to evaluate information about the licensee's performance and to ensure that the station is addressing issues concerning the community to which it is licensed to serve.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–13448 Filed 6–8–90; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city/state	File No.	MM Docket No.
A. Community Communications, Corp.; Indianapolis, IN	BPH–880727MB	90–276
B. Shirk, Inc.; Indianapolis, IN	BPH–880727MJ	
C. Hampton Broadcasting Limited Partnership; Indianapolis, IN	BPH–880727ML	
D. The Moody Bible Institute of Chicago; Indianapolis, IN	BPED–880728MA	
E. Indianapolis Broadcasters Limited Partnership; Indianapolis, IN	BPH–880728MB	
F. Minority Female Broadcasters; Indianapolis, IN	BPH–880728MQ	
G. Media-Wise of Indianapolis, Inc.; Indianapolis, IN	BPH–880728MS	
H. Eileen S. Lapin, Douglas M. Lapin, and Stanley P. Lapin d/b/a Lapinco; Indianapolis, IN.	BPH–880728MU	
I. Blackburn Broadcasting, Inc; Indianapolis, IN	BPH–880728MW	
J. Patrick D. McConnell; Indianapolis, IN	BPH–880728MX	
K. Thomas M. Eells; Indianapolis, IN	BPH–880728NB	
L. Broad Ripple Communications; Indianapolis, IN	BPH–880728NC	
M. Peppi Broadcast Communications Limited Partnership; Indianapolis, IN	BPH–880728NF	
N. Brightness Ministries, Inc; Indianapolis, IN	BPED–880728NG	
O. Midwest FM Radio Limited Partnership; Indianapolis, IN	BPH–880728NH	
P. Indy Radio, Inc.; Indianapolis, IN	BPH–880728NJ	
Q. A.J. Radio Limited Partnership; Indianapolis, IN	BPH–880728NK	
R. White River Communications, Inc.; Indianapolis, IN	BPH–880728NL	
S. Indianapolis FM Broadcasters Limited Partnership; Indianapolis, IN	BPH–880728NO	
T. Wander Broadcasting Corporation; Indianapolis, IN	BPH–880728NQ	
U. SBM Communications, Inc; Indianapolis, IN	BPH–880728NR	
V. Robert M. Winters; Indianapolis, IN	BPH–880728NN (Dismissed Herein)	

Issue Heading and Applicants

1. Environmental, A, C, F, G, H, I, L, N, P, Q, S, T, U
2. (See Appendix), F
3. (See Appendix), F
4. (See Appendix), F
5. Financial, O
6. Comparative, A–U
7. Ultimate, A–U

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The

text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name above is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Additional Issue Paragraphs

2. To determine whether Minority (F) shareholder Darie D. Hamilton withheld information and answered questions untruthfully during discovery as a principal in 105.3, Ltd. in the Solana, Florida proceeding (MM Docket 87–464).

3. To determine whether Ms. Hamilton and 105.3, Ltd. avoided compliance with the reporting requirements in the Solana proceeding (MM Docket 87–464).

4. To determine whether, in light of the evidence adduced pursuant to Issues 2 and 3, above, Minority (F) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 90–13450 Filed 6–8–90; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for 5 new FM stations:

Applicant, city/state	File No.	MM docket No.
I		
A. Eastwood Baptist Church; Bixby, OK.	BPH–880601MQ	90–270
B. Tara L. Vanarsdel; Bixby, OK.	BPH–880601MS	
C. H & H Broadcasting, Inc.; Bixby, OK.	BPH–880601MT	
D. Betty Ann Demaree; Bixby, OK.	BPH–880602NC	
E. Righteous Radio, Inc.; Bixby, OK.	BPH–880602NQ	
F. P.K.L. Partnership; Bixby, OK.	BPH–880602NX	
G. John M. Singer; Bixby, OK.	BPH–880602NY	
H. Pamela R. Jones; Bixby, OK.	BPH–880602OK	
Issue Heading and Applicants 1. See Appendix, E 2. See Appendix, E 3. See Appendix, E 4. Air Hazard, A,B,C,D,F,G 5. Comparative, A,B,C,D,E,F,G,H 6. Ultimate, A,B,C,D,E,F,G,H		
II		
A. Augusta Radio Fellowship Institute, Inc.; Wilmington, NC.	BPED–880602ML	90–274
B. Beatriz Laura Garcia Suarez de McComas; Wilmington, NC.	BPH–880602NF	
C. Peter Grear and Anthony R. Grear dba Grear Broadcasting; Wilmington, NC.	BPH–880602NR	
D. Catherine E. Pugh; Wilmington, NC.	BPH–880602NR	
E. Eastern Communications Limited Partnership; Wilmington, NC.	BPH–880602NT	
Issue Heading and Applicants 1. See Appendix, A 2. See Appendix, A 3. Air Hazard, B 4. Environmental, B 5. Financial C,D 6. Comparative, A,B,C,D,E 7. Ultimate, A,B,C,D,E		
III		
A. Carolyn Ring; Hampton, NH.	BPH–880505MG	90–272
B. Starboard Productions; Hampton, NH.	BPH–880505MI	
C. Alfred R. Francoeur, Janet A. Francoeur, d/b/a Francoeur Radio Partnership; Hampton, NH.	BPH–880505MU	
D. TVB Broadcasting Company; Hampton, NH.	BPH–880505MY	
E. Jon E. Paradise; Hampton, NH.	BPH–880505NC	
F. Thomas G. Davis & Martha S. Shapiro, Joint Tenants; Hampton, NH.	BPH–880505NJ	
G. Hampton Broadcasting; Hampton, NH.	BPH–880505OH	
H. Hampton Broadcasting Company; Hampton, NH.	BPH–880505OQ	
I. Jane E. Newman; Hampton, NH.	BPH–880505OY	
J. Oceanside Broadcasting Company; Hampton, NH.	BPH–880505PS	
K. Vezina Broadcasting, Inc.; Hampton, NH.	BPH–880505PT	
Issue Heading and Applicants 1. See Appendix, K 2. See Appendix, K 3. See Appendix, K 4. Comparative, A–K 5. Ultimate, A–K		
IV		
A. Communications Ventures, Limited Partnership; Plattsmouth NE.	BPH–880714MF	90–269
B. Platte Broadcasting Company, Inc.; Plattsmouth, NE.	BPH–880714NY	
Issue Heading and Applicants 1. Air Hazard, B 2. Comparative, A,B 3. Ultimate, A,B		
V		
A. Oliver Brewer, et al., d/b/a Trussville Broadcasting; Trussville, AL.	BPH–880519MH	90–273
B. Lawson Communications, Inc.; Trussville, AL.	BPH–880519MK	
C. William E. Benns, IV; Trussville, AL.	BPH–880519MZ	
D. Stanton Broadcasting Corporation; Trussville, AL.	BPH–880519NX	
E. Dobson Broadcasting Co.; Trussville, AL.	BPH–880519OH	
Issue Heading and Applicants 1. See Appendix, B 2. See Appendix, B 3. See Appendix, B 4. Financial Qualifications, A 5. Air Hazard, C		

Applicant, city/state	File No.	MM docket No.
6. Comparative, A,B,C,D,E		
7. Ultimate, A,B,C,D,E		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix (Bixby, Oklahoma)

Additional Issue Paragraphs

1. Whether Sonrise Management Services, Inc. is an undisclosed party to the application of E (Righteous Radio, Inc.)

2. Whether E's (Righteous Radio, Inc.) organizational structure is a sham.

3. To determine, from the evidence adduced pursuant to Issues 1 and 2 above, whether E (Righteous Radio, Inc.) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix (Wilmington, North Carolina)

Additional Issue Paragraphs

1. To determine, with respect to A (Augusta Radio Fellowship, Inc.), whether, in light of the evidence adduced concerning the deficiencies set forth in the Hearing Designation Order in Docket 88–296, the applicant is financially qualified.

2. To determine (a) whether, in light of the evidence adduced pursuant to Issue 1 above, A (Augusta Radio Fellowship, Inc.) made misrepresentations to the Commission, was lacking in candor in its dealings with the Commission or attempted to deceive or mislead the Commission, and (b) if issue (a) is resolved in the affirmative, the effect thereof on A's basic qualifications to be a Commission licensee of the facilities sought herein.

Appendix (Hampton, New Hampshire)

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of K (Vezina).

2. To determine whether K's (Vezina's) organizational structure is a sham.

3. To determine, from the evidence adduced pursuant to Issues 1 and 2 above, whether K (Vezina) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix (Trussville, Alabama)

Additional Issue Paragraphs

1. To determine whether Sonrise Management Services is an undisclosed party to the application of B (Lawson).

2. To determine whether B's (Lawson) organizational structure is a sham.

3. To determine, from the evidence adduced pursuant to issues 1 and 2 above, whether B (Lawson) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 90–13451 Filed 6–8–90; 8:45 am]
BILLING CODE 6712–01–M

[Common Carrier Docket No. 90–257, FCC 90–187]

Domestic Public Cellular Radio Telephone Service

AGENCY: Federal Communications Commission.

ACTION. Order designating applications for hearing.

SUMMARY: Pursuant to § 22.916 of the Commission's Rules, the applications, as amended, of La Star Cellular Telephone Company and New Orleans CGSA, Inc., to provide cellular service to St. Tammany Parish in the New Orleans, Louisiana, Metropolitan Statistical Area, on frequency Black B, are designated for comparative hearing. The Commission also designated threshold issues against La Star pertaining to its eligibility to apply for the wireline license. The Commission's reason for designating threshold issues against La Star is that it appears that the partner without a wireline presence in New Orleans may have *de facto* control of the partnership. If so, La Star is not eligible to apply for the wireline license. The Commission's reason for designating the applications for comparative hearing, rather than lottery, is that this case presents a new situation pertaining to comparison of an expansion application with an application for new service. Accordingly, because New Orleans CGSA's application proposes expansion of an exiting service area, there are additional considerations in connection with the traditional comparative factors between cellular applicants. In particular, if sufficient probative evidence is produced, New Orleans CGSA, Inc., may be given a comparative credit for the fact that its proposed operation in St. Tammany Parish would be in conjunction with a previously authorized system in the neighboring city of New Orleans.

DATES: The Order was released on May 31, 1990. Notices of appearance by those named as parties in the Order are due June 21, 1990. The prehearing conference date will be specified in a later order.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, Mobile Services Division, Common Carrier Bureau, (202) 632–6450.

SUPPLEMENTARY INFORMATION: The Order was adopted on May 4, 1990 and released on May 31, 1990. The issues designated are as follows:

A. Threshold issues [1]

(1) To determine whether SJI maintains control over the decisions of La Star in connection with the prosecution of the captioned application;

(2) To determine whether SJI maintains control over its proposed cellular system;

(3) To determine whether Star is in *de facto* control of La Star;

---

[1] La Star shall bear the burden of proceeding with the introduction of evidence and the burden of proof of these threshold issues. *See* 47 U.S.C. 3309(e). At the discretion of the Presiding Administrative Law Judge, the hearing may be bifurcated to consider the threshold issues in full before moving on to the comparative issues. Both the threshold issues and the comparative issues are to be tried pursuant to the expedited hearing provisions of § 22.916(a)&(b) of the Rules. Those rules provide that "paper" hearings shall be conducted without oral testimony except at the discretion of the Presiding Judge, if he determines that the person requesting cross-examination has persuasively demonstrated that written evidence is ineffectual to develop proof.

(4) To determine, in light of the evidence adduced under the foregoing issues, whether La Star is eligible to apply for Block B frequencies.

B. Comparative issues

(1) To determine whether NOCGSA's expansion applications will better serve the public interest because of any close connection between St. Tammany Parish and other parts of the New Orleans MSA;[2]

(2) To determine on a comparative basis the geographic area and population that each applicant proposes to serve; to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer services;

(3) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities (including switching capabilities);[3]

(4) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed Cellular Geographic Service Area (CGSA) in order to meet anticipated increasing demand for local and roamer service;[4]

(5) To determine whether NOCGSA should be given a comparative credit for operational efficiencies which may exist if there is a demonstrated community of interet between New Orleans and St. Tammany Parish;

(6) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

Donna R. Searcy,

Secretary.

[FR Doc. 90-13499 Filed 6-8-90; 8:45 am]

BILLING CODE 6712-01-M

[2] NOCGSA may not receive any comparative advantage for its financial investment or for its cellular operations within St. Tammany Parish. La Star Cellular Telephone Company, 4 FCC Rcd at 3783 n. 18.

[3] *See* Cellular Communications Systems, 86 FCC 2d 469, 503 (1981), for a discussion of the relative importance of the evidence submitted under this issue.

[4] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency re-use the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems.

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

Westgate Forwarding Company, 1935 Providence Ct., College Park, GA 30337. Officer: Shelia Perry, Sole Proprietor

Victory Van Lines dba American Forwarding, 357 Targee Street, Staten Island, NY 10304. Officers: Barbara Simpson, President/Director, James S. Simpson, Treasurer, Robert F. O'Donnell, Stockholder

Automated Cargo Corp., 167-37 Porter Road, Jamaica, NY 11434-5222. Officers: William A. Meyer, President, Naomi Meyer, Vice President, Gail I. Meyer, Secretary

Seair International Corp., 7200 Boulevard East Apt. 4F, N. Bergen, NJ 07047. Officers: Hilda Diaz, President, Luis A. Pomales, Treasurer/Director. Winston Vidal, Sub-Treasurer/Director

Summit Trans Leins, 13506 Ashworth Pl. Cerritos, CA 90701. Officer: Byung Hak Yoo, Sole Proprietor

Profreight International Inc., 704 Ginesi Drive, Morganville, NJ 07751. Officers: Rudolf W. Stockhammer, President/Director/Stockholder, Sigrid Stockhammer, Vice President, Catherin Smit, Secretary

Jet Shipping Company, 80 East 44th St., Hialeah, FL 33013. Officers: Lawrence L. Rodberg, President/CEO/Director, Larry P. Rodberg, Vice Pres./Director Operation & Admin., David F. Kratochvil, Vice President Sales, Wayne N. Neumann. V. Pres./Secr./Treas./Dir.

Third Party Logistics, Inc., 2212 South 144th Street, Seattle, WA 98168. Officers: Robert J. O'Brien, President, John R. Buchanan, Vice President

Caribe Express, Inc., 6704 N.W. 82 Ave., Miami, FL 33136. Officers: Raquel Caride, President, Nestor Gonzalez, Secretary/Treasurer/Stockh., Joseph R. Chatt, Director/Stockholder

World Express CFS, Inc. dba Pacific Cargo Lines, 2848 E. 208th St., Long Beach, CA 90810. Officers: Chris D. Lee, President, Donghwa Liu, Chairman/Treasurer

Mariano Pino dba Associated Shipping Agencies Ltd., 100 Brook Drive, Dover, NJ 07801. Officers: Mariano Pino, President/Director/Treasurer, Jhr. Hugo P. Gevers deynoot, Director, David Patrick Stamp, Director, Douglass John Dawson, Secretary

TCI Worldwide, Inc., 990 Avenue of the Americas, Suite 5-N, New York, NY 10018. Officers: Audie Wang, President/Treasurer/Director/Stockholder, Janet Chen, V. President/Secretary/Director/Stockholder, Joy W. Yu, Director/Stockholder.

By the Federal Maritime Commission.

Dated: June 6, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-13428 Filed 6-8-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms under Review

June 5, 1990.

BACKGROUND

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulation on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503 (202-395-7340)

Final approval under OMB delegated authority of the extension with revision, of the following report:

Report title: Notice by Financial Institutions of, and Termination of,

Activities as a Government Securities Broker or Government Securities Dealer
Agency form number: FR G–FIN and FR G–FINW
OMB Docket number: 7100–0224
Frequency: On occasion
Reporters: State member banks, foreign banks, state-chartered branches and agencies of foreign banks, and commercial lending companies owned or controlled by foreign banks
Annual reporting hours: 50
Average hours per response: 1
Estimated number of respondents: 50
Small businesses are affected.
General description of report: This information collection is mandatory [15 U.S.C. 78o-5(a)(1)(B)] and is not given confidential treatment.

Each financial institution that acts as a government securities broker or dealer is required to notify its appropriate federal regulatory agency of its broker-dealer activities by filing an FR G–FIN, unless exempted from the notice requirement by Treasury Department regulation. Financial institutions that have previously filed an FR G–FIN and that have terminated their broker-dealer activities must notify their appropriate federal regulatory agency by filing an FR G–FINW. The revisions involve changing the name of one of the federal agencies and making other minor editorial and organizational changes to the form and instructions.

Board of Governors of the Federal Reserve System, June 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–13400 Filed 6–8–90; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

[Docket No. C–3289]

Archer-Daniels-Midland Company, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, Archer-Daniels-Midland Company, and its subsidiary, ADM Milling Co., to divest certain wheat flour mills within twelve months of the date this order becomes final and to comply with all the terms of the Agreement to Hold Separate. If respondents do not divest the properties within twelve months of the order, the order requires that they shall consent to the appointment by the Commission of a trustee to divest the properties. Respondents are also required to obtain FTC approval, for a period of 10 years, before acquiring any assets located in the southeast portion of the U.S. used for the production, distribution or sale of bulk bakery wheat flour.

DATES: Complaint and Order issued May 22, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Barbara K. Shapiro, FTC/S–3302, Washington, DC 20580. (202) 326–2633.

SUPPLEMENTARY INFORMATION: On Thursday, January 25, 1990, there was published in the **Federal Register**, 55 FR 2551, a proposed consent agreement with analysis In the Matter of Archer-Daniels-Midland Company and ADM Milling Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the commission has ordered the issuance of the complaint, made its jurisdictional findings and entered an order to divest in disposition of this proceeding.

Authority: (Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 90–13427 Filed 6–8–90; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Renewal

Pursuant to the Federal Advisory Committee Act, Public Law 92–463 [5 U.S.C. appendix II], the Health Resources and Service Administration announces the renewal by the Secretary, HHS, with concurrence by the General Services Administration, of the following advisory committee.

Council: HRSA AIDS Advisory Committee.

Termination Date: June 3, 1992.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

Dated: June 5, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90–13406 Filed 6–8–90; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Institute of Dental Research; Meeting of NIDR Special Grants Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Special Grants Review Committee, National Institute of Dental Research, July 10–11, 1990, in the Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland 20814. The Committee will meet in the Charles Room. The meeting will be open to the public from 9 a.m. to 9:30 a.m. on July 10 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on July 10, from 9:30 a.m. to recess and on July 11, from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

Dr. Rose Marie Petrucelli, Executive Secretary, NIDR Special Grants Review Committee, NIH, Westwood Building, room 519, Bethesda, MD 20892, (telephone 301/496–7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13–122—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13–845—Dental Research Institute; National Institutes of Health)

Dated: June 1, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–13374 Filed 6–8–90; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the following study sections for July 1990, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	July 1990 meeting	Time	Location
AIDS & Related Research 1, Dr. Sami Mayyasi, Rm. A13, Tel. 301–496–0012	July 9–10	8:30	Holiday Inn, Bethesda, MD.
AIDS & Related Research 2, Dr. Gilbert Meier, Rm. A10, Tel. 301–496–5191	July 9	8:30	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 3, Dr. Marcel Pons, Rm. A13, Tel. 301–496–7286	July 9–11	8:00	Holiday Inn, Bethesda, MD.
AIDS & Related Research 4, Dr. Mohindar Poonian, Rm. A10, Tel. 301–496–4666	July 16–17	8:30	Holiday Inn, Bethesda, MD.
AIDS & Related Research 5, Dr. Kendall Powers, Rm. A10, Tel. 301–496–4673	July 16–17	8:00	Marriott Hotel, Pooks Hill, Bethesda, MD.
AIDS & Related Research 6, Dr. Gilbert Meier, Rm. A10, Tel. 301–496–5191	July 12	8:30	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 7, Dr. Kendall Powers, Rm. A10, Tel. 301–496–4673	July 9	8:00	Holiday Inn, Bethesda, MD.
Behavioral and Neurosciences–1, Dr. Luigi Giacometti, Rm. 303, Tel. 301–496–5352	July 9–11	9:00	The Savoy Suites Hotel, Washington, DC.
Behavioral and Neurosciences–2, Dr. Luigi Giacometti, Rm. 303, Tel. 301–496–5352	July 6	8:30	Omni Shoreham Hotel, Washington, DC.
Biological Sciences–1, Dr. James R. King, Rm. A22, Tel. 301–496–1067	July 11–13	8:30	St. James Hotel, Washington, DC.
Biological Sciences–2, Dr. Syed Amir, Rm. 326, Tel. 301–496–3117	July 11–13	8:30	Holiday Inn, Georgetown, DC.
Biological Sciences–3, Dr. Mr. Gene Headley, Rm. A27, Tel. 301–496–6724	July 16–17	8:30	St. James Hotel, Washington, DC.
Biomedical Sciences, Dr. Charles Baker, Rm. 219, Tel. 301–496–7150	July 23–25	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences–1, Ms. Jo Pelham, Rm. 353, Tel. 301–496–7477	July 19–20	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences–2, Ms. Jo Pelham, Rm. 353, Tel. 301–496–7477	July 16–17	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Immunology, Virology & Pathology, Dr. Lynwood Jones, Rm. A20, Tel. 301–496–7510	July 10–12	8:30	Rocky Mountain Laboratory, Hamilton, MT.
International & Cooperative Projects, Dr. Sandy Warren, Rm. 222, Tel. 301–496–7600	July 30–31	8:30	Hyatt Regency, Bethesda, MD.
Physiological Sciences, Dr. Nicholas Mazarella, Rm. 222, Tel. 301–496–1069	July 19–20	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: June 1, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–13373 Filed 6–8–90; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–90–3099]

The Performance Review Board

AGENCY: Office of the Secretary, Department of Housing and Urban Development.

ACTION: Notice of appointment.

SUMMARY: The Department of Housing and Urban Development announces the appointment of Michael F. Hill as Acting Vice-Chairperson, to the Departmental Performance Review Board. Their address is: Department of Housing and Urban Development, Washington, DC, 20410.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Donald J. Keuch, Jr., Director, Office of Personnel and Training, Department of Housing and Urban Development, Washington, DC 20410, telephone (202) 708–2000. (This is not a toll free number.)

Dated: June 1, 1990.

Jack Kemp,

Secretary.

[FR Doc. 90–13407 Filed 6–8–90; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–09–4212–17]

Realty Action; Emergency Area Closure; Correction to; Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to emergency area closure.

SUMMARY: Below is listed the correction to an Emergency Area Closure Order published in the **Federal Register**, Vol. 54, No. 110 / Friday, June 9, 1989, Page 24755: In the 2nd sentence, 1st paragraph, read the following: "* * * of section 23, * * *" and should have read the following: "* * * of section 32, * * *".

Dated: May 30, 1990.

Russell L. Kaldenberg,

Area Manager.

[FR Doc. 90-13403 Filed 6-8-90; 8:45 am]

BILLING CODE 4310-40-M

[CA-067-09-4352.12]

Use Restriction of Commercial Vehicles on Gecko Road, Gecko Campground Road, and Roadrunner Campground Road

AGENCY: Bureau of Land Management, Interior.

ACTION: Use restriction.

SUMMARY: The purpose of this restriction is to prohibit the use of Gecko Road by commercial vehicles greater than 14,000 lbs. gross vehicle weight and longer than 50 feet in length. This restriction will decrease traffic congestion and road deterioration on Gecko Road. This road is connected to California State Highway #78 approximately 6 miles west of Glamis, California. This Regulation is not meant to interfere with the use of Gecko Road and adjoining campground roads by authorized commercial trucks and venders. The legal descriptions are portions of the Township 13S, Range 17E, Section 36 and Township 14S, Range 17E, Section 1, Township 14S, Range 18E, Sections 41, 7, 17, 21, 28, Township 14S, Range 17½E, Sections 6, 7, 15 and 21, San Bernardino Meridian.

Background

Roads and parking lots in this areas are heavily used by ATV enthusiasts and recreationist during weekends and most holidays during the year. Use by commercial diesel tractor trailer rigs is causing increased traffic congestion on the roads and parking lots and causing increased deterioration of the asphalt pavement.

EFFECTIVE DATE: This Restriction will be effective upon the date of publication and will remain in effect until rescinded or modified by the authorized officer.

FOR FURTHER INFORMATION CONTACT: Ranger Stan Kerlin, Bureau of Land Management, El Centro Resource Area, 333 South Waterman Avenue, El Centro, California 92243, (619) 352-5842.

SUPPLEMENTARY INFORMATION: The authority for this Use Restriction is provided at 43 CFR 8364.1 Violations of this closure are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: May 7, 1990.

H.W. Riecken,

Acting District Manager.

[FR Doc. 90-13418 Filed 6-8-90; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's Information Collection Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service and OMB, Paperwork Reduction Project (1018-0012), Washington, DC 20503, telephone 202-395-7340.

Title: Declaration for Importation or Exportation of Fish or Wildlife.

OMB Approval No. 1018-0012.

Abstract: The Service regulates the exportation and importation of fish and wildlife, as a treaty obligation under the Convention on International Trade in Endangered Species, and as required by regulations contained in 50 CFR part 14. The information is used by the Service as an enforcement and management aid and to regulate and enforce the import/export provision of several laws the Service enforces, such as the Endangered Species Act of 1973, the Lacey Act Amendments of 1981, and the Marine Mammal Protecton Act. Form 3-177 must be filed at designated ports with the Service—for imports, when requesting wildlife clearance. For exports, such declaration must be filed in advance of the actual departure of wildlife from the United States to allow reasonable time for inspection. At non-designated ports, such declaration should be filed with U.S. Customs prior to removal of wildlife from the United States.

Service Form Number: 3-177.

Frequency: On occasion.

Description of Respondents: Individuals and households, small businesses or organizations, and businesses or other for profit.

Estimated Completion Time: The overall reporting burden is estimated to average 15 minutes per response with an overall response rate average of 4 entries per respondent.

Annual Responses: 89,000.

Annual Burden Hours: 21,250.

Service Information Collection Clearance Officer: James E. Pinkerton, Mail Stop—224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240; telephone 358-1943.

Dated: April 16, 1990.

Rollin D. Sparrowe,

Acting Assistant Director—Refuges and Wildlife.

[FR Doc. 90-13443 Filed 6-8-90; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-749044

Applicant: San Diego Zoological Society, San Diego, CA.

The applicant requests a permit to import two pairs of capitve-born McNeill's deer (*Cervus elaphus macneilli*) from Chengdu Zoo, People's Republic of China for the purpose of enhancement of propagation and survival of the species.

PRT-749232

Applicant: Harris Quillian Jones, Jr., Fort Meyers, Florida.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive-bred herd maintained by V.L. Pringle, Huntley Glen-Bedford Farm, P.O. Box 59, Bedford, 5780 Cape Province, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-748105

Applicant: International Animal Exchange, Inc., Ferndale, MI.

The applicant requests a permit to sell in foreign commerce and export one captive born female Bengal tiger (*Panthera tigris*) to the Pata Zoo, Bangkok, Thailand, for breeding and display purposes.

PRT-679043

Applicant: Duke University Primate Center, Durham, NC 27705.

The applicant requests a permit to sell in interstate and foreign commerce and export dead endangered and threatened specimens within the following families: Lemuridae, Indriidae, Cheirogaleidae, and Daubentoniidae for biomedical and scientific research.

PRT-697819

Applicant: U.S. Fish and Wildlife Service, Regional Director—Region 4, Atlanta, GA.

The applicant requests amendment of their current permit to allow take of additional plants and mussels for the purposes of scientific research and enhancement of propagation or survival of the species in accordance with Recovery Plans, listing or other Service work.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in room 430, 4401 N. Fairfax Dr., Arlington, VA 22201, or by writing to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, room 432, Arlington, VA 22201.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: June 5, 1990.

Karen Willson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 90-13390 Filed 6-8-90; 8:45 am]

BILLING CODE 4310-55-M

Michigan Pipeline Application

Notice is hereby given that under section 28 of the Mineral Leasing Act of 1920 (30 U.S.C.), as amended by the Act of November 16, 1973 (37 Stat. 576, Pub. L. 93-153), Shell Michigan Pipeline Company has applied for a 16-inch two-phase natural gas and condensate pipeline right-of-way across lands in the Kirtland's Warbler Management Area in Ogemaw County, Michigan.

The pipeline will convey natural gas across two of the tracts within the Management Area for a total distance of approximately 4,360 linear feet. The 25-foot right-of-way will be located in a vacant corridor, 27 feet in width that lies between the northeasterly right-of-way line of the Michigan Department of Transportation Railroad and the southwesterly right-of-way line of St. Helen Trail, also known as the Beaver Lake Road.

The purpose of this Notice is to inform the public that the U.S. Fish and Wildlife Service will be proceeding with the processing of this application, the compatibility determination and the approval processing which includes the preparation of the terms and conditions of the permit.

Interested persons who want to express their views are invited to contact the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Your comments should be sent within thirty (30) days of the publication date of this Notice. Please include your name and return address with all correspondence.

James C. Gritman,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 90-13431 Filed 6-8-90; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31679]

Lafarge Corp.; Control Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commisson exempts the Lafarge Corporation from the prior approval requirements of 49 U.S.C. 11343 *et seq.*, to acquire control of Western Rail Road Company. The exemption is subject to standard conditions for the protection of rail employees.

DATES: This exemption is effective on June 16, 1990. Petitions for reconsideration must be filed by July 2, 1990.

ADDRESSES: Send pleadings referring to Finance Docket No. 31679 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and

(2) Petitioner's representative: James B. Harris, Thompson & Knight, 1700 Pacific Avenue, 3300 First City Center, Dallas, TX 75201

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. [TDD for hearing impaired: (202) 275-1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

Decided: June 1, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90-13429 Filed 6-8-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 89-20]

Butler Drug Store; Revocation of Registration

This proceeding before the Drug Enforcement Administration (DEA) was initiated on April 5, 1989, by issuance of an Order to Show Cause (Order) to Butler Drug Store of Nashville, Tennessee (Respondent). The Order proposed to revoke Respondent's DEA Certificate of Registration, BB0761836, as a retail pharmacy and deny any pending application for renewal of such registration under 21 U.S.C. 823(f). The Order to Show Cause proposed revocation of Respondent's registration based on grounds that such registration was inconsistent with the public interest, 21 U.S.C. 824(a)(4), and for further reason that Respondent's owner, George Bray, had been convicted of a felony relating to controlled substances, 21 U.S.C. 824(a)(2).

Respondent requested a hearing and the matter was docketed before Administrative Law Judge Francis L. Young. Following prehearing procedures, a hearing was held in Nashville, Tennessee on October 3, 1989. On November 2, 1989, the administrative law judge issued his opinion and recommended ruling. The Government filed exceptions to that ruling and Respondent replied. On December 6, 1989, Judge Young transmitted the record of these proceedings, including the aforementioned exceptions, to the Administrator for final agency action. The Acting Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

In June 1986, George Bray, owner of Respondent pharmacy, was indicted on multiple counts of unlawful, knowing and intentional dispensing of controlled substances in violation of Tennessee law. At a jury trial, Mr. Bray was acquitted of two counts and the jury hung as to the other 13 counts. At a second trial, Mr. Bray was convicted of

one count and acquitted of the rest. The conviction was for placing a quantity of Percodan, a Schedule II controlled substance, in a vehicle so that the vehicle's owner could take the Percodan without presenting a lawful prescription.

After Mr. Bray's conviction on March 28, 1988, the Tennessee Board of Pharmacy (Board) initiated a proceeding against Mr. Bray's pharmacist license. Mr. Bray admitted in that proceeding that he unlawfully provided Percodan to an individual without receiving a lawful prescription. An agreed final order was entered in that case whereby Mr. Bray agreed to a one year suspension of his pharmacist license, the suspension to be stayed pending satisfactory completion of five years probation. He also paid a $2,500 civil penalty assessed by the Board.

The Administrator may revoke a DEA Certificate of Registration and deny any application for such registration, if it is determined that the continued registration of the registrant would be inconsistent with the public interest. 21 U.S.C. 823(f) and 824(a)(4). The factors which are considered in determining whether a registration would be in the public interest are enumerated in 21 U.S.C. 823(f). These include, *inter alia*, the registrant's past experience in dispensing controlled substances and such other conduct as may threaten the public health and safety. All of the factors need not be present for a conclusion that a registration is contrary to the public interest. The Administrator may accord each factor the weight he deems appropriate, based upon the facts of the case. In this case, the pharmacy owner's diversion of dangerous narcotics is sufficient reason to convince the Acting Administrator that Respondent pharmacy's registration is contrary to the public interest.

The Administrator may also revoke a registration under 21 U.S.C. 824(a)(2) upon a finding that the registrant has been convicted of a felony relating to controlled substances. The DEA has consistently held that the registration of a corporate registrant may be revoked upon a finding that a natural person who is an owner, officer, or key employee, or who has some responsibility for the operation of the registrant's controlled substance business, has been convicted of a felony offense relating to controlled substances. See *Yazid M. Mahadi, d/b/a Gresham Road Pharmacy*, Docket No. 86–31, 51 FR 27267 (1986); *Ozie T. Faison, d/b/a Smith Discount Drugs*, Docket No. 85–37, 51 FR 16403 (1986); *Coolidge Drugs, d/b/a The Apothecary*, 50 FR 31785 (1985); and *K & B Successors, Inc.*, Docket No. 82–15, 49 FR 34588 (1984). Such conviction provides the lawful grounds for the revocation of a corporate registrant's registration, and for the denial of any pending applications for renewal of that registration. 21 U.S.C. 824(a)(2) and 823(f)(3). See also *Daniel Levine, t/a Gladstone Pharmacy*, Docket No. 84–20, 50 FR 32651 (1985); *AG Pharmacy, Inc.*, Docket No. 79–12, 45 FR 6868 (1980); and *Serling Drug Co.*, Docket No. 74–12, 40 FR 11918 (1975).

The administrative law judge recommended that Respondent be permitted to retain his registration. The Acting Administrator does not agree. The possession of a DEA registration, and with it the authority to handle controlled substances in the course of one's business or professional practice, is a privilege. That privilege is limited by the public's need to be assured that those persons who are entrusted with a registration will handle controlled substances responsibly. The public has a right to expect that health professionals will not only handle controlled substances responsibly in the course of their professional practices, but, as persons having special knowledge of the terrible consequences of drug abuse, will also be role models in the prevention of drug abuse outside of their narrow professional roles. A pharmacist's participation in the trafficking of controlled substances represents the ultimate abandonment of professional responsibility.

Respondent's owner, Mr. Bray, was convicted in a criminal court before a jury of his peers. He was accorded all the constitutional and procedural rights due to persons accused of crimes. The Acting Administrator will not gainsay the jury's verdict.

Accordingly, having determined that the owner of Respondent pharmacy has been convicted of a felony relating to controlled substances, and having concluded that Respondent's registration is inconsistent with the public interest, the Acting Administrator of the Drug Enforcement Administration concludes that such registration should be revoked. Therefore, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Acting Administrator orders that DEA Certificate of Registration, BB0761836, previously issued to Butler Drug Store be, and it hereby is, revoked. It is further ordered that any pending applications for renewal of Respondent's registration be, and they hereby are, denied. This order is effective July 11, 1990.

Dated: June 1, 1990.

Terrence M. Burke,

Acting Administrator.

[FR Doc. 90–13366 Filed 6–8–90; 8:45 am]

BILLING CODE 4410–09–M

Ciba-Geigy Corp., Manufacturer of Controlled Substances Registration

By Notice dated Februay 15, 1990, and published in the **Federal Register** on February 23, 1990, (55 FR 6491), Ciba-Geigy Corp., Regulatory Compliance SEF 1030, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: May 29, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Admininstration.

[FR Doc. 90–13369 Filed 6–8–90; 8:45 am]

BILLING CODE 4410–09–M

Janssen Inc., Manufacturer of Controlled Substances, Registration

By notice dated February 23, 1990, and published in the **Federal Register** on March 5, 1990, (55 FR 7783), Janssen Inc., HC 02 Box 19250, Gurabo, PR 00658–9629, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm

for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 29, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90-13368 Filed 6-8-90; 8:45 am]

BILLING CODE 4410-09-M

Knoll Pharmaceuticals, Manufacturer of Controlled Substances; Registration

By Notice dated March 5, 1990, and published in the **Federal Register** on March 15, 1990, (55 FR 9784), Knoll Pharmaceuticals, 30 North Jefferson Road, Whippany, NJ 07981, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II
Hydrocodone (9193)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 29, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90-13370 Filed 6-8-90; 8:45 am]

BILLING CODE 4410-09-M

McNeilab Inc., Manufacturer of Controlled Substances; Registration

By Notice dated February 23, 1990, and published in the **Federal Register** on March 5, 1990, (43 FR 7783), McNeilab Inc., DBA Noramco of Delaware Inc., 500 Old Swedes Landing Road, Wilmington, DE 19801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Shedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 29, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90-13367 Filed 6-8-90; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Survey of Medical Surveillance Programs

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of expedited information collection clearance under the Paperwork Reduction Act.

SUMMARY: The Occupational Safety and Health Administration (OSHA), Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35, 5 CFR part 1320 (53 FR 16618, May 10, 1988)), is resubmitting a request for approval to the Office of Management and Budget for a survey to support the technological and economic feasibility of a generic Medical Surveillance standard. The request was originally submitted February 23, 1990 at 55 FR 6491. This will be a one time only survey.

DATES: OSHA has requested an expedited review of this submission under the Paperwork Reduction Act; this OMB review has been requested to be completed by July 11, 1990.

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding the survey or reporting burden should be directed to Paul E. Larson, Departmental Clearance Officer, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., room N-1301, Washington, DC 20210 (202-523-6331).

Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, room 3001, Washington, DC 20503 (202-395-6880).

Any member of the public who wants to comment on the information collection clearance package which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Nature of Action: Resubmission.
Average Burden Hours/Minutes Per Response: 39 minutes.
Frequency of Response: One-time survey.
Number of Respondents: 10,192.
Annual Burden Hours: 6,553.
Annual Responses: 10,192.
Affected Public: Business or other for-profit; Non-profit institutions; Small business or organizations.
Respondents Obligation to Reply: Voluntary.

Signed at Washington, DC, this 4th day of June 1990.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

Supporting Statement for Survey and Related Data Gathering To Support Evaluation of Occupational Health Surveillance Programs

A. Justification

1. Necessity of Data Collection

The Office of Regulatory Analysis of the Occupational Safety and Health Administration (OSHA) is collecting data to evaluate the extent and effectiveness of existing occupational medical surveillance and exposure assessment/monitoring programs in the U.S. This data gathering effort involves the creation of a survey-based data set to assess the extent and content of industrial hygiene and health surveillance programs (including medical surveillance, biological monitoring, exposure assessment/monitoring, and wellness programs) with regard to occupational exposure to chemicals regulated under substance-specific OSHA standards, substances listed on OSHA's Table Z-1-A, and ergonomic related health and safety hazards.

The survey was originally submitted in February, 1990, but has been significantly revised to take into account many written comments received from several groups: American Iron and Steel Institute, American Petroleum Institute, Chemical Manufacturers Association, Pennzoil Company, and Syntex, Inc. Comments received at informal

meetings with industry and labor groups have also been taken into account. In response to recommendations, the survey scope has been narrowed to focus more directly on medical surveillance and exposure monitoring issues. This focus should aid in the ability of establishments to answer questions and should reduce the time required to complete the survey. In addition, part of the survey has been redesigned to allow written responses to questions.

Medical surveillance and exposure monitoring requirements are components of existing substance-specific health standards promulgated by OSHA. However, OSHA has no generic standard requiring medical surveillance and monitoring. OSHA issued advance notices of public rulemaking for both subject areas in September 1988.

The central problem in the design of a study to evaluate the effectiveness of existing occupational medical surveillance and monitoring programs is the selection of an appropriate measure for success. The process of identifying and selecting performance measures can expose fundamental differences in expectations about medical surveillance programs and what they are designed to achieve. For example, many medical surveillance programs are designed to detect injury and illness. Measures of success for such programs would be their accuracy in early detection of illness or injury and the number of cases discovered.

Some medical surveillance programs, however, function as a component part of a comprehensive occupational safety and health program. The components of an integrated program may include equipment and engineering controls designed to eliminate worker exposure to health and safety hazards, work practice controls, training in appropriate personal protective equipment use, and administrative controls, including medical surveillance and monitoring programs. Since comprehensive safety and health programs are generally aimed toward lowering exposure levels and reducing hazards, it would be both surprising and disappointing to management, in these cases, to find any occupationally-induced illnesses among wokers medically examined. The expected performance measure of an integrated medical surveillance program is that it will document the fact that the work force is healthy, and that program components designed to ensure a safe and healthful work environment are effective.

In addition, some medical surveillance programs are designed to identify both occupational and non-occupational related illnesses or conditions which could lead to illness. When detected, such illnesses or conditions are treated at company expense in order to protect and preserve a valuable resource—an experienced and trained workforce. Such programs need to be identified and characterized in order to produce sensible analysis and effectiveness results.

Further, while some firms do medical surveillance only as required by OSHA's substance specific medical surveillance standards, other firms go beyond OSHA standards with more extensive surveillance. OSHA will obtain information from both groups.

Based on survey responses and subsequent site visits, efforts will be made to identify the nature and extent of medical surveillance practices currently in place, the expectations or criteria for success that are appropriate to apply in evaluating these programs, and the effectiveness levels achieved (according to expectations and criteria for success) based upon a review of individual company records.

As reorganized, the survey is composed of two parts, a Phase I in which all respondents participate, and a second, follow-up Phase II questionnaire which will ask in-depth questions on medical surveillance and health and safety management programs. The first phase contains questions on medical surveillance, biological monitoring, exposure assessment, exposure monitoring, and ergonomics. It also includes screening questions which will be used to select possible participants for the second phase: those companies which have either a well developed medical surveillance program, or a comprehensive occupational safety and health program. The second phase will be either a written or a phone survey (at the choice of the respondent), and will obtain more detailed medical surveillance and risk evaluation management information.

OSHA's Congressional mandate stipulates that the agency carefully design and study its regulatory proposals. Section 6(b)(5) of the OSHA Act 2d U.S.C. 655 (b)(5) mandates that regulations promulgated by the Agency shall most adequately assure worker safety and health "to the extent feasible on the basis of the best available evidence." They are to be based on "research and the latest available scientific data." Section 6(d) of the Act requires regulations to be justified by "substantial evidence in the record" and authorizes the Secretary of Labor "to enter into contracts, agreements or other arrangements with appropriate public agencies or private organizations for the purposes of conducting studies related to his responsibility under the Act." The courts have endorsed the view that technological and economic factors affect the feasibility of proposed regulations. Thus, OSHA is obligated to gather data on the potential effectiveness (benefits) and economic consequences of any future standards.

Executive Order 12291 reiterates this obligation by requiring the preparation of preliminary and final Regulatory Impact Analyses for each major rule. The Agency must analyze the potential benefits and costs of rules and alternative approaches. The Regulatory Impact Analysis may be combined with the analysis required by the Regulatory Flexibility Act. This Act specifically requires an analysis that describes the "impact of the proposed rule on small entities" and significant regulatory alternatives that "take into account the resources available to small entities."

In order to fulfill the Congressional and Presidential mandates and to better evaluate feasibility and consequences of regulatory action, OSHA requires data that describe current industry practices and identify the effectiveness of current medical surveillance and exposure assessment/monitoring programs. Thus, in accordance with section 6 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 655, OSHA is planning to gather statistically accurate data through a survey of establishments to assess the extent to which they have implemented medical surveillance and exposure assessment programs. These data, combined with information collected during site visits, will enable the Agency to develop estimates of the direct and indirect effects associated with these programs. No existing data source is adequate for this purpose.

Currently, much of the data available for estimating the extent to which general industry has adopted medical surveillance and monitoring programs is limited to specific chemicals or is outdated. Data on comprehensive occupational safety and health programs are also limited. In addition, most of the data available to OSHA are not based on a random sample, and thus may not be representative.

Data are also needed on a variety of ergonomic aspects of a facility's operation. Developing a data base relevant to medical surveillance and exposure monitoring will require data on work practices and the work environments in which they are performed. No such data base currently exists.

Injury and illness data are the final part of the necessary information on work environments. OSHA will obtain OSHA Form 200 and 101 information, which summarizes the establishment's injury and illness record, during the on-site visits. These data will be correlated with other survey responses in order to determine the relationships between health practices (medical surveillance, exposure monitoring, etc.) and incidence of injuries and illnesses.

A timetable for the survey and the associated regulatory impact analysis is presented in Figure A–1. The schedule currently calls for completion of the bulk of the survey effort within a 12 week period. In order to adhere to this timetable, we request that OMB perform an expedited review of this information colection request.

TABLE A–1.—SCHEDULE FOR DESIGN AND COMPLETION

Complete design of survey instrument and submit information collection plan to OMB.	May 29, 1990.
Publish Federal Register notice of survey submission to OMB.	May 29–June 1, 1990.
Obtain sampling frames for each sample stratum.	July 5, 1990.
Receive OMB approval of survey (expedited).	June 29, 1990.
Begin mailing notification letters to survey targets.	June 29, 1990.
Begin telephone interviewing	July 16, 1990.
Complete telephone interviewing	Sept. 15, 1990.
Phase II interviews	Sept. 20, 1990.
Complete Phase II interviews	Oct. 3, 1990.
Perform data tabulations	Oct. 25, 1990.
Integrate survey results into a draft final report.	Nov. 30, 1990.
Respond to comments and submit final report.	End of Year 1990.

2. Use of the Information

The data gathered through this survey will be used by OSHA to assess the effectiveness of existing medical surveillance programs, and to make estimates of the direct and indirect benefits of medical surveillance and monitoring programs. The information gathered from all of the data collection efforts may be used by OSHA to develop and evaluate alternative rules and to prepare a regulatory impact analysis (RIA) for any proposed or final rules. The survey results will create a unique database characterizing current medical surveillance and exposure monitoring practices in general industry; survey results will be used to evaluate the effectiveness of existing programs in terms of their expectations and achievements and provide guidance for improving their effectiveness.

The questions in the survey are designed to gather the needed information in a straight forward manner. The discussion below describes in detail the data uses as related to each set of questions in the survey instrument.

A. Introduction and Collection of Identification Data

The first elements of the survey instrument describe the telephone survey in general and determine whether the respondent is in the SIC code anticipated by the survey design. If the respondent is not in the SIC code expected (based on Dun and Bradstreet industry list), the correct SIC will be identified. If the SIC is one that is to be covered in the survey, the interviewer will continue the guestioning.

B. Data Collection of Types of Activities and Employment

The next set of questions specify the type of activities (e.g., manufacturing, administrative, service, etc.) performed in the facility. These questions will be used in later segments of the questionnaire. Employment data from Dun and Bradstreet will be validated, and questions on presence of chemicals will be asked.

C. Questions on Medical Surveillance, Biological Monitoring, Exposure Assessment, Exposure Monitoring, Ergonomics.

The interviewer will ask questions concerning programs for medical surveillance, biological monitoring, exposure assessment, exposure monitoring, and ergonomics. The questions include what tests are performed, how often and why, who is responsible for and involved with the programs, and what results have been found.

D. Screening Question to Determine Usefulness of Re-Contact

A final question will determine whether the respondent has a safety program which would be relevant to the Phase II Risk Evaluation follow-on questionnaire. Respondents for recontact will be determined based on answers to the Medical Surveillance part of the survey.

E. Phase IIA Medical Surveillance Questionnaire

Interviewer will request detailed information on medical surveillance tests, exposure levels, and effectiveness of programs.

F. Phase IIB Risk Evaluation/Safety Management Questionnaire

Interview will include questions on "systems type" preventive health and safety programs.

3. Use of Technology to Reduce Burden

Information from the questionnaire will be collected using a computer assisted telephone interviewing (CATI) system. The telephone contact has several advantages. The response rate is consistently better than mail surveys, and the cost and time for completing interviews is reduced. CATI system responses are entered directly into the computer, eliminating the need for separate recording and coding operations. Also, the computer ensures that the proper sequence of questions is followed automatically. For example, if the response to one question suggests that a follow-up question can be skipped, the computer will automatically move on. The interviewer simply reads the questions as they appear on the screen. In addition, the use of CATI allows the interviewer to omit questions that would not be relevant for the particular establishment being questioned. This system produces a smoothly flowing interview and eliminates any pauses or delays by the interviewer to enter responses by hand or to find the next question. In essence, the computer produces a questionnaire tailored to each establishment.

4. Efforts to Avoid Duplication

An extensive literature review on the subject areas has been conducted. This research has led to the conclusion that there is currently no systematic, comprehensive, and statistically accurate databae on medical surveillance, exposure monitoring, risk evaluation and ergonomic related issues relevant to measuring the effectiveness of these programs.

5. Availability and Limitations of Data from Existing Sources

A. OSHA's Integrated Management Information System (IMIS) Data Base

OSHA's Integrated Management Information System (IMIS) contains data related to OSHA inspections for safety and health violations. This data source can be used, on an industry basis, to obtain the frequency with which firms are cited for any violations resulting from lack of medical surveillance, exposure monitoring or exposure assessment and hazard analysis which may be required by specific regulations. The IMIS also contains data on OSHA investigations of accidents and provides

information on the nature and the cause of the injury or fatality. These data will be used to supplement data from the survey in assessing the benefits of any proposed standards. However, there are biases in the IMIS data; very small firms are not as likely to be inspected by OSHA personnel; only the most hazardous industries are targeted for inspections, and enforcement priorities may influence the pattern of citations in an unmeasurable fashion.

B. National Occupational Exposure Survey (NOES)

This two-year effort directed by the National Institute for Occupational Safety and Health (NIOSH) involved visits to some 4,500 businesses representative of the establishments covered by OSHA. Company officials were interviewed regarding the types of health and safety programs in effect, and a plant walk-through was conducted in order to document the number of workers exposed to various substances, and the control methods used. Since this survey was conducted between 1981–1983, the results may not accurately reflect current industry practices particularly with respect to the changing area of medical surveillance programs.

C. OSHA Surveys on Personal Protective Equipment (PPE) and Permissible Exposure Limits (PEL)

Each of these surveys sampled over 5,000 establishments and collected a wide range of safety and health related information on the process level. The PEL survey provided data regarding employee exposure to specific chemicals which might produce health hazards. The PPE survey was designed to collect information regarding the availability and proper use of personal protective equipment. In the PEL survey, questions concerning exposure monitoring were asked, but more detailed questions regarding exposure assessment analysis were not explored. Although some information was gathered on medical surveillance, exposure assessments and safety management programs, neither survey explicitly focused on these subjects.

6. Minimizing Small Employer Burden

Many of the establishments in general industry are small. Data from these establishments will play an important role in characterizing exposures for a large number of employees. The survey sample will be stratified by large and small establishments. To reduce the burden on these establishments, both the total number of establishments surveyed and the number of questions asked have been kept to a minimum. Since small establishments within each category are expected to have less variability in terms of the number of employees, programs in place, and the types of exposures, they will be sampled in lower proportions to their total number than larger firms without sacrificing or diminishing the level of confidence in the estimates.

7. Consequence of Less Frequent Collection

This is a one-time, non-recurring survey. The consequences associated with less frequent collection are not applicable.

8. Consistency with 5 CFR 1320.6

There are no special circumstances that require the collection of information in any manner inconsistent with the guidelines in 5 CFR 1320.6

9. Expert Review of the Survey Questions

The survey design team has had discussions with industry experts in order to assess the substance of the survey questions. The clarity of instructions and other specific survey design elements have been reviewed by contractor survey experts and OSHA personnel.

A. The survey instrument has been reviewed in April and May of 1990 by:

Dr. Hugh Conway, Office of Regulatory Analysis, OSHA, 202–523–9690;

Ms. Marilyn Schuster, Office of Regulatory Analysis, OSHA, 202–523–9916;

Ms. Jennifer Simmons, Office of Regulatory Analysis, OSHA, 202–523–7177;

Ms. Jennifer Silk, Office of Health Standards Analysis, OSHA, 202–523–7166

B. The effort has been made to correct problem areas identified by public comment on an earlier version of this survey.

C. Public comment on this version of the survey will be solicited through the **Federal Register** notice of the intended study.

10. Confidentiality

Procedures have been developed to protect the confidentiality of the collected data. These measures are summarized below:

A. All contractor and subcontractor personnel will be given instructions regarding the importance of keeping all information they obtain from respondents confidential.

B. The data will be collected using a Computer Assisted Telephone Interviewing (CATI) system. This technology enables the survey responses to be automatically written to a computer data file. Neither the name of the company nor the respondent will appear in the data file. A listing of respondents will be kept separately in a locked file cabinet at the contractor's office, and will be destroyed when no longer needed. The respondents' names will be linked to the data base through a unique number assigned at the time of the interview.

C. Publication of study results will be of a statistical nature only. Respondents will never be identified in any publication or presentation, nor will their names be made available to other individuals or groups.

11. Sensitive Questions

The proposed survey instrument contains no questions of a sensitive nature.

12. Costs

The total one-time cost to the government of the proposed data collection is $500,000. This estimate includes costs incurred by contractors for administration and operation of the data collection, tabulation of survey results, and subsequent analyses. The total one-time cost to general industry establishments is estimated to be $127,009 (using an administration wage rate of $20.45 an hour including fringe benefits).

13. Estimate of Respondent Reporting Burden

Every effort will be made to minimize respondent burden. The survey instrument has been designed to allow the respondent to provide estimates and approximations. It is not the intent of the survey to require respondents to compile new data. Where data are requested, the survey instrument notes that reference is being made to data which the respondent should be able to estimate readily or access easily. In addition, respondents chosen for Phase II of the survey will have the option of completing either a written or a telephone follow-up survey.

It is estimated that either 2 minutes, 15 minutes or 60 minutes will be required for the completion of the first phase of the survey. For example, contacts will be made that will result in a non-response. These calls will take, on average, 2 minutes to complete. The estimated number of non-response calls (4,042) is based on 20 percent not being in scope and 25 percent of the in scope cases refusing or otherwise not participating. For non-response or

screening only contacts, the total respondent burden will be approximately 135 hours.

The estimated number of short-style questionnaires (15 minutes) was determined by assuming that not all establishments will have medical surveillance, exposure assessment, monitoring or ergonomics programs in place, and therefore, would not be asked specific questions on those subjects. The estimated proportions based on establishment employee size, were derived from compliance rates of training from OSHA's 1989 Personal Protective Equipment (PPE) survey. It was assumed that approximately the same proportion of establishments would have health and safety programs as had training programs. The noncompliance training rates of approximately 40%, 25%, 20%, and 20% for establishment sizes of (1) 1–19 employees; (2) 20–99 employees; (3) 100–249 employees; and (4) 250 or more employees, respectively, were applied across all industry sectors. For the short-style questionnaire, the burden is projected to be 360 hours from 1,442 respondents.

Based on a projected 4,658 long-style questionnaire respondents, the time for completed surveys will be approximately 4,658 hours. It is estimated that 5–40 percent of companies contacted will have programs which will make them candidates for the Phase II recontact survey. From among this group of establishments a combined sample of approximately 500 firms will be recontacted. The approximate respondent burden for the follow-on survey is estimated at two hours for a total of 1,000 hours. Finally, about 50 site visits are planned in order to collect more detailed information related to program expectations and effectiveness. Each site visit will involve approximately 8 hours. Thus, the respondent burden is estimated to be 400 hours. For all parts of the survey, the total respondent burden will be 6,553 hours. The respondent burden is summarized below in Table A–2.

TABLE A–2

Type of respondent	Number of respondents	Completion time (min.)	Total burden (hrs.)	Respondent costs[1]
Non-response or Screening Only	4,042	2	135	$2,761
Short-style Questionnaire	1,442	15	360	7,362
Long-style Questionnaire	4,658	60	4,658	95,256
Follow-up Questionnaires	500	[2] 2	1,000	20,450
Site Visits	50	[2] 8	400	1,180
Total	10,192		6,553	127,009

[1] Based on an administrative wage rate of $20.45 per hour including fringe benefits.
[2] Hours.

B. STATISTICAL METHODS

1. Characterization of the Universe and Sample

Universe and Sampling Frame. The universe of interest in the Medical Surveillance Survey is all OSHA-regulated establishments in the United States which are subject to proposed OSHA regulations concerning the implementation of medical surveillance and exposure monitoring programs. Establishments whose employees are potentially exposed to OSHA-regulated substances in the workplace would be affected. As an additional goal, OSHA is presently examining ergonomic related health problems in U.S. workplaces.

The need for these programs and the extent to which they have already been implemented in the U.S. differs by industry sector. Establishments in the Standard Industrial Classification (SIC) codes listed in Table B–1 will be surveyed. The 31 subgroups defined in the SIC list are the key estimation cells for this study. State or local government owned establishments not located in OSHA state-plan states (e.g., state government transportation, health care or other service industry facilities) are excluded. Federally owned establishments are also excluded from the survey.

Estimates of the population establishment counts for the 31 estimation cells are provided in Table B–2. These counts were obtained from the Dun & Bradstreet (D&B) establishment file. The D&B frame has been used by OSHA's Office of Regulatory Analysis in several of its prior surveys and has proved to be efficient for establishment surveys.

Population statistics shown in Table B–2 are tabulated by estimation cell and, within cell, by size category. The size categories are defined by the number of workers employed at each establishment. The size class boundaries are:

(1) 1–19 employees;
(2) 20–99 employees;
(3) 100–249 employees; and
(4) 250 or more employees.

TABLE B–1.—DEFINITION OF ESTIMATION CELLS

Cell	SIC
1	13, 46.
2	15, 16, 17.
3	20, 21.
4	22, 23, 31.
5	24, 25.
6	26, 27.
7	281, 282, 286, 287.
8	283, 284, 295, 289.

TABLE B–1.—DEFINITION OF ESTIMATION CELLS—Continued

Cell	SIC
9	29.
10	301, 302, 305, 306, 308.
11	321, 322, 323.
12	324, 325, 326, 327, 328, 329.
13	331, 332, 3331, 3334.
14	3339, 334, 335, 336, 339.
15	341, 342, 343, 346, 347.
16	344, 345, 348, 349.
17	35 (except 357), 39.
18	357, 36, 38.
19	37.
20	41, 42, 4491, 4493, 47, 48.
21	49.
22	50 (except 501, 503, 505, 508, 5093), 52 (except 521), 57.
23	501, 55, 75, 7692, 7694.
24	503, 505, 508, 5093, 515, 516, 517.
25	51 (except 515, 516, 517), 52, 54, 58.
26	53, 56, 59.
27	60, 61, 62, 63, 64, 65, 67, 7, 81, 86, 87, 89.
28	70, 78, 79, 84.
29	72, 76 (except 7692 and 7694).
30	80.
31	82, 83.

TABLE B-2.—CHARACTERIZATION OF THE POPULATION

Cell	SIC	Total plants	Total employees
1	13, 46	33,316	469,589
2	15, 16, 17	795,019	5,529,895
3	20, 21	26,402	1,635,833
4	22, 23, 31	40,263	2,067,797
5	24, 25	49,823	1,328,303
6	26, 27	87,445	2,404,395
7	281, 282, 286, 287	7,380	584,740
8	283, 284, 285, 289	11,708	687,846
9	29	2,924	212,556
10	301, 302, 305, 306, 308	16,499	893,951
11	321, 322, 323	3,329	214,228
12	324-329	15,956	425,531
13	331, 332, 3331, 3334	4,141	514,962
14	3339, 334, 335, 336, 339	5,590	363,882
15	341, 342, 343, 346, 347	15,816	706,749
16	344, 345, 348, 349	26,892	915,169
17	35(not 357), 39	96,107	2,428,371
18	357, 36, 38	46,694	3,859,058
19	37	14,888	2,158,374
20	41-2, 4491, 4493, 47, 48	216,996	3,733,615
21	49	26,830	1,064,157
22	50, 52(partial), 57 [1]	447,315	3,307,909
23	501, 55, 75, 7692, 7694	556,794	3,746,212
24	503, 505, 508, 5093, 515-517	201,270	1,929,008
25	51, 52(partial), 54, 58 [1]	714,872	9,416,584
26	53, 56, 59	901,747	6,255,591
27	60-65, 67, 73, 81, 86, 87, 89	1,484,085	18,270,352
28	70, 78, 79, 84	172,472	2,719,822
29	72, 76(not 7692, 7694)	453,651	1,867,485
30	80	380,490	8,206,611
31	82, 83	242,170	9,432,783
	Total	7,098,884	97,351,358

[1] For Cells 22 and 25 the definitions are complicated. Please refer to the definitions in Table B-1.

Design Overview. There are two parts to the Medical Surveillance Survey. Phase I consists of a questionnaire on medical surveillance, biological monitoring, exposure assessment, exposure monitoring, and ergonomics. Phase II is made up of in-depth medical surveillance questions and questions on risk and safety management. The sample design for Phase I consists of a stratified probability sample of 6,100 establishments.

By selecting independent samples within each subdomain or stratum, the overall variance of the estimates will be reduced. The reduction in variance is a function of the correlation between the stratification variables and the estimates to be produced from the survey. Stratification variables are industry sector and establishment employment size class.

Samples were allocated to each size stratum within industry sectors using optimal allocation constrained to be proportional to the stratum employment. The sample will be selected using systematic selection techniques. Prior to selection, within each industry/size class stratum, the establishments will be sorted by four digit SIC.

Estimates will be derived for each of the 31 estimation cells listed in Table B-1. For each of the categories defined above (i.e., estimation cell by size class group), the total number of establishments, the total number of employees, the number of required responses and the number of establishments to be solicited are presented in Exhibit A. All sample sizes were estimated using establishment and employment counts obtained from the frame. If any frame inaccuracies are encountered during the data collection effort, they will be addressed in the estimation phase. For example, an estimate of total "in scope" establishments in the universe will be made using weighted survey data.

Following the completion of Phase I, a subset of up to 500 establishments will be identified for recontact as part of the Phase II in-depth survey of the effectiveness of existing medical surveillance, workplace monitoring, risk evaluation, and safety management programs. Candidates for recontact will be establishments with either a well developed medical surveillance program or a comprehensive occupational safety and health program.

As in past surveys using the D&B frame, OSHA expects that over 80 percent of solicited cases will be in scope (e.g., in business, having working telephone numbers). Further, of those in scope cases, a response rate in excess of 75 percent is expected. The estimate for the total number of establishments to be solicited takes into account these assumptions. A summary of the sample allocation scheme, aggregated to the estimation cell level, is presented in Table B-3.

2. Information Collection Procedures

Data Collection. In Phase I the information will be collected using Computer Assisted Telephone Interviewing (CATI) techniques. A letter of introduction, signed by the Assistant Secretary of Labor for OSHA, will be initially sent to each potential respondent to familiarize them with the survey goals and ask for their participation.

Effective Sample Size and Precision of Sample Estimates. In this survey, the proportion of establishments with medical surveillance programs and the associated cost and effectiveness of these programs are key variables of interest to OSHA. Sample size estimates for the first of these variables are routine to produce. For cost and effectiveness variables, a model was developed in order to guide the design of the sample survey.

The model assumes that the total industry cost is related to the number of establishments estimated to have medical surveillance programs and the number of workers working at establishments which do not have such programs. The number of employees at establishments without programs, is assumed to have a multiplicative form. At each establishment we assume that:

$$Z = X^{*}I$$

where Z is the number of employees at the establishment without a program, X is the total number of employees at the establishment, and I is an indicator random variable which takes the value 0 if the establishment has a program (i.e., none of these employees are to be counted in the eventual sum) and 1 if the establishment has no program (i.e., all of these employees are to be included in the sum). Since statistics about the variable, X, can be obtained from the D&B frame, and since the variable, I, is assumed to follow the Bernoulli distribution where the mean, p, is the fraction of establishments with programs, one can deduce statistics about the variable of interest, Z.

Assuming independence of the variables, X and I within size classes, it follows that the mean of Z is the product of the mean of X and the mean of I. The formula for the variance of Z is:

$$\mathrm{Var}(Z) = \mathrm{Var}(X)\,\mathrm{Var}(I) + E(X)\,\mathrm{Var}(I) + E(I)\,\mathrm{Var}(X).$$

TABLE B–3.—SAMPLE SIZE ALLOCATION

Cell	SIC	Sample size No. 1	Sample size No. 2	Target sample size	Number cases solicited
1	13, 46	115	58	87	145
2	15, 16, 17	81	78	80	160
3	20, 21	522	122	322	537
4	22, 23, 31	562	107	334	557
5	24, 25	357	117	236	393
6	26, 27	394	128	262	437
7	281, 282, 286, 287	450	149	299	498
8	283, 284, 285, 289	466	131	299	498
9	29	303	90	196	327
10	301, 302, 305, 306, 308	396	115	256	427
11	321, 322, 323	438	155	297	495
12	324–329	278	108	193	322
13	331, 332, 3331, 3334	333	137	235	392
14	3339, 334, 335, 336, 339	308	118	213	355
15	341, 342, 343, 346, 347	383	140	261	435
16	344, 345, 348, 349	330	115	223	372
17	35 (not 357), 39	358	124	241	402
18	357, 36, 38	777	186	482	803
19	37	770	237	503	838
20	41, 42, 4491, 4493, 47, 48	125	66	96	160
21	49	220	60	140	233
22	50, 52(partial), 57 [1]	93	66	79	132
23	501, 55, 75, 7692, 7694	80	81	80	133
24	503, 505, 508, 5093, 515–517	84	77	80	133
25	51, 52 (partial), 54, 58 [1]	96	64	80	133
26	53, 56, 59	80	80	80	133
27	60–65, 67, 73, 81, 86, 87, 89	80	80	80	133
28	70, 78, 79, 84	80	80	80	133
29	72, 76 (not 7692, 7694)	73	88	80	133
30	80	186	54	120	200
31	82, 83	86	86	86	143
	Total	8,900	3,297	6,100	10,192

[1] For Cells 22 and 25 the definitions are complicated. Please refer to the definitions in Table 1.

The resulting sample sizes for both of the design variables mentioned are provided in Exhibit A. In both Exhibit A and Table B–3, sample sizes which are related to the number of establishments believed to have medical programs are referred to as Sample Size # 1. The sample size which was produced to estimate the variable, Z, defined above, is referred to as Sample Size # 2. Both sets of sample sizes were produced assuming the following accuracy requirements: for Cells 3 through 19, which were derived from manufacturing SICs (20–39), a target coefficient of variation (cv) of 6.5 percent was used. For Cells 1–2, 20–21, 23–25, and 30 among the non-manufacturing SICs, a coefficient of variation of 10 percent was used; for the remaining non-manufacturing cells a coefficient of variation of 12.5 percent was used. (The coefficient of variation is the ratio of the standard error of the estimator to the mean of the estimator.) Different accuracy requirements were set for the three groups because it was determined at the outset of the survey design effort that there was a greater need for accuracy in the manufacturing sector since program effectiveness and costs are expected to have great variability in that sector.

Sample Size # 1 was determined for each industry group by calculating the minimum sample required to achieve the target cv when using a proportional to employment-based allocation to each size class stratum.[1] The stratum population standard deviations used in this calculation were based upon information obtained from data collected in the Personal Protective Equipment (PPE) Survey, conducted by OSHA in 1988–1989.[1] Specifically, data on training practices, including the proportion of establishments that provided employee training for PPE, were examined. (Thus, the training program data from this earlier survey were used as the proxy estimator for the presence or absence of a medical surveillance program.) Based upon these data and supplemental expert opinion, the following rates represent OSHA's best efforts at estimating medical surveillance program availability by size category: 0.60, 0.75, 0.82, and 0.83 for size classes 1, 2, 3, and 4, respectively.

Sample Size # 2 was determined using the mean and standard deviation estimates described above for each cell and size category. Neyman allocation was used to allocate the resulting sample to each stratum.

The final target sample size (as described in both Table B–3 and Exhibit A) is the arithmetic mean of the two sample sizes. This procedure is common in the situation where two or more variables, which are important design variables, result in different sample sizes. The resulting intermediate sample size represents a compromise which is both cost effective and which attempts to accommodate, in part, the requirements of each of the key design variables.

The number of solicitations required to achieve the target number of 6,100 completed questionnaires from eligible establishments was estimated by dividing this target sample size by the expected fraction of successful interview attempts (60%). Based on experience with past OSHA establishment-based surveys, it is anticipated that 60 percent of the establishments contacted will result in completed interviews. (The 60% is the product of the proportion of the sample in scope (80%) and the proportion of the sample giving usable responses (75%); reasons for nonresponse include refusal, language barrier, extenuating circumstances existing during the data collection period, the inability to contact

[1] Cochran, W.G., 1977, *Sampling Techniques Third Edition*, John Wiley and Sons, New York. See Equation 5.44 on page 105.

an establishment because it has closed, and other unforeseen circumstances.) Hence, 10,192 establishments will be asked to participate in the survey. The number of solicitations for Cell 2, the construction industry, was obtained by dividing the target sample size by 0.5 to account, in part, for the smaller fraction of in-business respondents which are expected to be on the frame.

Sample Selection Methodology. Sample selection under stratified sampling will be carried out independently within strata. To implement the selection, the D&B file will be sorted by the primary strata (industry sector) and by secondary strata (employment size class) within cells. Prior to selection, within each industry/size class stratum, the establishments will be sorted by four digit SIC. The sort by four digit SIC will achieve a proportional distribution of the within-stratum sample across the four digit SICs.

Selection will be by systematic sampling from a random start within each sector and size stratum. The skip interval for the selection within stratum will be established as the reciprocal of the sampling rate corresponding to the particular stratum. As discussed earlier, a total sample of 10,192 establishments will be selected. This sample includes additional units to cover losses due to nonresponse, out-of-scope or out-of-business establishments on the D&B frame, and "bad" telephone numbers (e.g., ring-no-answer, disconnected).

Estimation Procedure. Estimates will be produced for each estimation cell. The survey estimator will be self-weighting within stratum, but sampling weights will be required to produce overall estimates to account for differential probabilities of selection across the strata. The overall estimator of totals will take the form:

$$\hat{Y} = \sum_{i,j,k} WGT_{ijk} * NRAF_{ijk} * y_{ijk},$$

where

y_{ijk} is the response of the kth unit in the jth stratum of estimation cell i;

WGT is the stratum sampling weight; and

NRAF is the stratum's unit nonresponse adjustment factor for the parameter in question (NRAF is defined below).

Estimates of means will take the following form:

$$\bar{Y} = \sum_{i,j,k} WGT_{ijk} * NRAF_{ijk} * y_{ijk} \Big/ \sum_{i,j,k} WGT_{ijk} * NRAF_{ijk}.$$

The Nonresponse Adjustment Factor (NRAF) for the kth usable unit in stratum j of estimation cell i is calculated as follows:

$$NRAF_{ijk} = \frac{\sum_{viable} employment_{ijk} * WGT_{ijk}}{\sum_{usable} employment_{ijk} * WGT_{ijk}}$$

The Nonresponse Adjustment Factor is calculated for each size class stratum j in estimation cell i by summing the pre-coded employments for all viable sample units (all sample units less out-of-scope and out-of-business units) divided by the employment sum of all usable sample units.

To most efficiently use the D&B sampling frame, estimates of key variables will be "benchmarked" to other data sources. For example, the estimate of "total cost of coming into compliance" will be computed as follows:

$$C_i = \frac{\sum_{j,k} c_{ijk} * WGT_{ijk} * NRAF_{ijk}}{\sum_{j,k} emp_{ijk} * WGT_{ijk} * NRAF_{ijk}} * (BLS\ Emp)_i$$

where

emp_{ijk} is the number of employees obtained from the survey;

c_{ijk} is the program cost amount associated with case k within cell i and size stratum j; and

$(BLS\ Emp)_i$ is the number of employees obtained from sources at the Bureau of Labor Statistics.

It is expected that some respondents who do participate in the survey will either refuse to answer some questions or not know the answer. In such cases it is common to impute responses. Imputation is done by using information obtained from the responses on other questions and/or information from other like respondents to fill in the missing value. There are many methods in common use for imputing for missing data including ratio estimates of totals, mean imputation, hot deck procedures and regression-based imputation. If necessary, OSHA will select an imputation approach after careful review of the data inadequacies and study needs. If adopted, both the original and imputed values will be retained in the data base.

OSHA plans to use balanced repeated replication (BRR) techniques to produce standard errors of the estimate. This method is preferred because of the complexity of determining exact formulas for survey data which include nonresponse adjustment factors. Computation of such standard errors is routine within the use of computers.

Accuracy. As discussed above, the survey is designed to produce estimates having relative standard errors ranging from 0.065 to 0.125 depending on industry sector. It is emphasized, however, that estimates for all industries combined will be quite accurate (relative variances will be less than 2 percent).

3. Methods to Maximize Response Rates

This survey is voluntary and is expected to yield a response rate of approximately 75 percent of in-scope establishments. Experience on prior surveys indicates that the Dun & Bradstreet frame has over 90 percent in-scope cases.

Every effort will be made to complete interviews for all inscope establishments: up to five call backs will be made to obtain a completed questionnaire. OSHA's experience with surveys conducted using CATI is that response rates are improved. In particular, CATI allows:

- Direct telephone contact with the central contact person identified on the D&B frame;
- Scheduling and maintaining a detailed record of the initial solicitation and all call-backs to obtain an interview with the contact person; and
- Efficient use of telephone contact time to encourage respondent participation.

4. Tests of Procedures

OSHA plans to pretest the questionnaire with randomly selected potential respondents. The Agency will use these interviews to insure that the questions are understood by the interviewees and that the pace of the questionnaire is reasonable. Establishments will be selected in several sectors including large and small as well as manufacturing and non-manufacturing establishments.

In addition, OSHA proposes to conduct a Phase II recontact of up to 500 firms to gather in-depth information on the effectiveness of medical surveillance programs in place. This data will be used to verify earlier results. Up to 50 site visits will also be conducted to check the quality and reliability of the data collected by the telephone survey (Phase I) or written survey (Phase II). They will be selected to obtain adequate representation of the different types of medical and biological monitoring programs currently used by employers. Detailed interviews with occupational physicians and health staff will result in the collection of data on practices and costs for various types of health surveillance programs and the benefits associated with these programs.

5. Expert Review

The statistical aspects of the survey design have been reviewed by:

Dr. Hugh Conway, Office of Regulatory Analysis, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523–9690

Dr. Arnold Greenland, The Washington Consulting Group, Inc., 11 Dupont Circle, NW., Suite 900, Washington, DC 20036–1271, (202) 797–7800

The data will be collected and processed by:

Dr. Robert Hiett, KCA Research, 5501 Cherokee Avenue, Suite 111, Alexandria, VA 22312, (703) 642–5220

The data will be analyzed by:

Dr. Hugh Conway (address above)

Mr. William Perry, Meridian Research, Inc., 818 Roeder Road, Silver Spring, MD 20910, (301) 585–7665

Ms. Marilyn Schule, A.T. Kearney/ Centaur Division, Suite 300, 225 Reinekers Lane, Alexandria, VA 22313, (703) 836–6210

EXHIBIT A.—NUMBER OF FIRMS AND SAMPLE SIZE FOR INDUSTRIES TO BE SURVEYED

Cell	SIC	Size category	Total plants	Total employees	Sample one	Sample two	Average sample size
1	13,46	1	29,352	135,403	33	17	25
		2	3,340	124,040	30	15	23
		3	405	59,024	14	7	11
		4	219	151,122	37	19	28
Total			33,316	469,589	115	58	87

EXHIBIT A.—NUMBER OF FIRMS AND SAMPLE SIZE FOR INDUSTRIES TO BE SURVEYED—Continued

Cell	SIC	Size category	Total plants	Total employees	Sample one	Sample two	Average sample size
2	15, 16, 17	1	742,575	2,872,145	37	36	37
		2	47,487	1,670,917	22	21	21
		3	4,087	551,152	11	11	11
		4	870	435,681	11	10	11
Total			795,019	5,529,895	81	78	80
3	20, 21	1	15,853	104,328	33	8	21
		2	6,763	292,042	93	22	57
		3	2,293	338,272	108	25	67
		4	1,493	901,191	287	67	177
Total			26,402	1,635,833	522	122	322
4	22, 23, 31	1	25,528	143,338	39	7	23
		2	9,557	417,597	113	22	67
		3	3,159	475,068	129	24	77
		4	2,019	1,031,794	280	53	167
Total			40,263	2,067,797	562	107	334
5	24, 25	1	37,669	212,300	57	19	38
		2	9,283	382,391	103	34	68
		3	2,030	294,219	79	26	52
		4	841	439,393	118	39	78
Total			49,823	1,328,303	357	117	236
6	26, 27	1	68,938	382,490	63	20	42
		2	13,741	565,844	93	30	62
		3	3,250	471,201	77	25	51
		4	1,516	984,860	162	53	107
Total			87,445	2,404,395	394	128	262
7	281, 282, 286, 287	1	4,456	29,825	23	17	20
		2	1,938	84,787	65	22	43
		3	540	80,520	62	21	41
		4	446	389,608	300	90	195
Total			7,380	584,740	450	149	299
8	283, 284, 285, 289	1	7,639	50,080	34	10	22
		2	2,882	116,973	79	22	51
		3	675	98,501	67	19	43
		4	512	422,292	286	81	183
Total			11,708	687,846	466	131	299
9	29	1	1,924	12,322	20	20	20
		2	660	26,477	38	11	24
		3	184	27,626	39	12	26
		4	156	146,131	206	47	126
Total			2,924	212,556	303	90	196
10	301, 302, 305, 306, 308	1	9,086	60,647	27	13	20
		2	5,175	229,591	102	30	66
		3	1,570	228,141	101	29	65
		4	668	375,572	166	43	105
Total			16,499	893,951	396	115	256
11	321, 322, 323	1	2,449	12,205	25	15	20
		2	527	22,419	46	16	31
		3	149	22,937	47	17	32
		4	204	156,667	320	108	214
Total			3,329	214,228	438	155	297
12	324–329	1	11,457	74,068	48	19	34
		2	3,586	139,927	91	36	63
		3	692	98,280	64	25	45
		4	221	113,256	74	29	51
Total			15,956	425,531	278	108	193
13	331, 332, 3331, 3334	1	2,036	14,120	9	31	20
		2	1,252	55,550	36	15	25
		3	465	69,611	45	19	32
		4	388	375,681	243	73	158
Total			4,141	514,962	333	137	235
14	3339, 334, 335, 336, 339	1	3,084	22,036	19	21	20
		2	1,654	70,951	60	23	42
		3	542	80,852	68	26	47
		4	310	190,043	161	48	104
Total			5,590	363,882	308	118	213
15	341, 342, 343, 346, 347	1	10,020	66,220	36	13	24
		2	4,296	179,592	97	36	66
		3	1,034	150,155	81	30	56
		4	466	310,782	168	62	115
Total			15,816	706,749	383	140	261
16	344, 345, 348, 349	1	17,702	117,435	42	15	29
		2	7,298	300,672	108	38	73
		3	1,354	192,451	69	24	47
		4	538	304,611	110	38	74
Total			26,892	915,169	330	115	223

EXHIBIT A.—NUMBER OF FIRMS AND SAMPLE SIZE FOR INDUSTRIES TO BE SURVEYED—Continued

Cell	SIC	Size category	Total plants	Total employees	Sample one	Sample two	Average sample size
17	35 (except 357), 39	1	75,040	420,846	62	21	42
		2	16,636	657,758	97	34	65
		3	2,902	420,353	62	21	42
		4	1,529	929,414	137	47	92
Total			96,107	2,428,371	358	124	241
18	357, 36, 38	1	28,987	181,915	37	9	23
		2	11,175	478,600	96	23	60
		3	3,488	524,555	106	25	65
		4	3,044	2,673,988	538	129	334
Total			46,694	3,859,058	777	186	482
19	37	1	9,592	55,444	27	18	23
		2	3,045	131,506	64	14	39
		3	1,064	161,146	79	18	48
		4	1,187	1,810,278	600	187	393
Total			14,888	2,158,374	770	237	503
20	41, 42, 4491, 4493, 47, 48	1	183,246	923,089	31	16	24
		2	28,269	1,070,497	36	19	27
		3	3,817	540,885	18	9	14
		4	1,664	1,199,144	40	21	31
Total			216,996	3,733,615	125	66	96
21	49	1	19,631	109,248	23	18	20
		2	5,375	225,411	47	13	30
		3	1,077	158,325	33	9	21
		4	747	571,173	118	20	69
Total			26,830	1,064,157	220	60	140
22	50 (except 501, 503, 505, 508, 5093), 52 (except 521) 57.	1	420,246	1,852,158	38	25	31
		2	24,640	844,774	17	11	14
		3	1,845	252,881	17	12	15
		4	584	358,096	20	18	19
Total			447,315	3,307,909	93	66	79
23	501, 55, 75, 7692, 7694	1	524,799	2,200,658	38	39	38
		2	29,625	1,130,073	20	20	20
		3	2,117	281,564	12	12	12
		4	253	133,917	10	10	10
Total			556,794	3,746,212	80	81	80
24	503, 505, 508, 5093, 515, 516, 517	1	180,900	932,146	35	32	33
		2	18,976	655,949	25	22	23
		3	1,102	149,783	12	11	11
		4	292	191,130	13	12	13
Total			201,270	1,929,008	84	77	80
25	51 (except 515, 516, 517) 521, 54, 58	1	591,516	3,145,954	30	19	25
		2	112,732	4,258,134	40	26	33
		3	8,994	1,203,610	14	10	12
		4	1,630	808,886	12	9	10
Total			714,872	9,416,584	96	64	80
26	53, 56, 59	1	865,605	3,307,799	20	20	20
		2	27,844	1,023,396	20	20	20
		3	6,374	936,063	20	20	20
		4	1,924	988,333	20	20	20
Total			901,747	6,255,591	80	80	80
27	61-65, 67, 73, 81, 86, 87, 89	1	1,345,712	5,854,879	20	20	20
		2	115,265	4,305,097	20	20	20
		3	15,114	2,182,673	20	20	20
		4	7,994	5,927,703	20	20	20
Total			1,484,085	18,270,352	80	80	80
28	70, 78, 79, 84	1	148,682	668,161	20	20	20
		2	19,143	742,995	20	20	20
		3	3,213	454,870	20	20	20
		4	1,434	853,796	20	20	20
Total			172,472	2,719,822	80	80	80
29	72, 76 (exc 7692, 7694)	1	444,974	1,401,118	26	38	32
		2	7,791	271,341	17	19	18
		3	733	100,267	15	16	15
		4	153	94,759	15	16	15
Total			453,651	1,867,485	73	88	80
30	80	1	344,332	1,550,016	35	10	23
		2	23,688	1,053,225	24	7	15
		3	7,550	1,082,389	25	7	16
		4	4,920	4,520,981	102	30	66
Total			380,490	8,206,611	186	54	120
31	82, 83	1	148,313	801,678	20	20	20
		2	78,833	3,493,924	20	20	20
		3	10,480	1,527,428	20	20	20
		4	4,544	3,609,753	26	26	26
Total			242,170	9,432,783	86	86	86

OMB Approval No. xxxx
SIC Code xxxx
OSHA Contact: Jennifer Simmons (202) 523–7177
May 29, 1990
Name
Company
Address
City, State

Dear _____:

The Occupational Safety and Health Administration (OSHA) is considering the development of generic standards to address medical surveillance and exposure assessment programs. OSHA believes such regulations could significantly enhance the effectiveness of existing regulations in improving workplace safety and health.

On behalf of OSHA, KCA Research is conducting a voluntary telephone survey as part of this regulatory effort to determine the extent to which medical surveillance and exposure assessment are currently done in industry. Your firm has been selected to participate in this survey, and an interviewer will be calling you within the next few weeks. You may also be selected for a follow-up survey on either medical surveillance or safety programs. Information and cooperation from your firm will help OSHA develop the most practical and effective standard possible. To insure confidentiality, the survey information will be stored in a data base that will not permit individual firms or their responses to be identified.

The survey covers the following areas: Medical surveillance programs, biological monitoring, exposure assessment/monitoring, ergonomics, chemicals used, and recent injury and illness experience. We would appreciate your forwarding this letter to the person or persons in your organization best suited to respond to the survey.

We are required by the Office of Management and Budget to inform you that the public reporting burden for this collection of information is estimated to average 60 minutes per respondent, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, please send them to both the Office of Information Management, Department of Labor, Room N1301 (1218–0—), 200 Constitution Ave., NW., Washington, DC 20210 and the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

We look forward to talking to your firm about these issues.

Sincerely,

Gerard F. Scannell,

Assistant Secretary for OSHA.

Medical Surveillance Survey, OSHA

[Interviewer Instructions: Record the Following Information]

Interviewer Number
Cell Category
Size Code (1–4)
Sequence Number (max. 600)
Call Record SIC
Number of Employees
[Reenter Sequence #]
[Reenter SIC]

Introduction

Hello. My name is _____ and I'm calling from KCA Research in Alexandria, Virginia. We are conducting a survey on behalf of the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor to assess current practices in industry regarding Medical Surveillance and Exposure Assessment. A letter was sent to your facility informing you of this survey.

As the letter indicated, we are interested in understanding the extent of health programs in industry. OSHA is in the process of developing standards to establish generic requirements for medical surveillance and exposure assessment. These requirements will apply to the approximately 600 chemicals for which OSHA has adopted permissible exposure limits under the Air Contaminants rule. We would like to emphasize that all responses will be kept strictly confidential. Respondents will not be identified by name in any reports or data compilations submitted to OSHA.

We are interested in collecting information about your firm's medical surveillance and exposure assessment programs at *this address*. It would be best if I could speak with the person responsible for your medical programs (medical staff, industrial hygienist). Should I direct my questions to you, or is there someone else in the facility with whom you would prefer I speak?

1. Our records show your firm to be in SIC code XXXX, which is _____. Is this correct?
   a. Yes.
   b. No.
   c. Don't know.
   d. Refused.
   If "a or c", skip Q3.

2. How would you describe your line of business?
   a. _____ (record verbatim).
   b. Don't know.
   c. Refused.

3. Do you happen to know what that SIC code is?
   a. Enter SIC _____.
   b. Don't know.
   c. Refused.

4. Is this a state or local government operated facility?
   a. Yes.
   b. No.
   c. Don't know.
   d. Refused.
   If "a", only continue if in a state with a public employee program. Otherwise, terminate.

5. In total, how many employees work at your establishment at this address?
   a. _____ (record verbatim).
   b. Don't know.
   c. Refused.
   (If "a" is zero or "b" or "c", terminate).

6. Of these employees, how many do administrative work only?
   a. _____ (record verbatim).
   b. Don't know.
   c. Refused.

7. How many employees work for your establishment as a whole?
   a. _____ (record verbatim).
   b. Don't know.
   c. Refused.

Medical Surveillance

The term medical surveillance refers to the practice of providing physical examinations and medical tests to employees for the purpose of detecting the presence of injuries and illnesses that might be related to work activities.

8. I'm going to read a list of chemicals that many firms engaged in your line of business often use. I'd like you to tell me which , if any, of these chemicals are used at your location, how many employees are potentially exposed and whether you perform medical surveillance for the chemicals. Do you use _____? (SIC-specific prompt list of chemicals will be provided. Administtrative establishments in manufacturing SIC's will be prompted with a separate list.)

Chemical	No. of employees exposed	Medical surveillance	If 6(b) regulated chemical, what test performed*
A			
B			
C			
D			
E			
F			
G			

* If the chemical is regulated under comprehensive OSHA substance specific standard, what specific tests are performed for the chemical?

If no chemicals are used at this facility, go to Q10.

9. What other chemicals do you test for that I did not mention?

A _____ _____
B _____ _____
C _____ _____
D _____ _____

Limit open-ended chemical response to 4 chemicals.

10. How many of your employees are potentially exposed to each of the following:

	No. of employees
a. Chemicals for which OSHA has adopted comprehensive substance specific standards	
b. Chemicals for which OSHA has adopted exposure limits in the z-table (PELs, Air contaminants Rule)	
c. Other chemicals (non-OSHA regulated)	
d. Ergonomic hazards	

11. For each group of potentially exposed employees, for what percentage do you provide medical surveillance as a result of their specific exposures?

	percent of employees
a. Chemicals for which OSHA has adopted comprehensive substance specific standards	
b. Chemicals for which OSHA has adopted exposure limits in the z-table (PELs, Air Contaminants Rule)	
c. Other chemicals (non-OSHA regulated)	
d. ergonomic hazards	

12. How does your establishment decide when to include an employee in its medical surveillance program? (Record all that apply):

a. All employees are automatically included.
b. When job involves potential exposure to substances in the Air Contaminants rule.
c. When the employee's exposure exceeds a predetermined level (for example, action level, PEL, or TLV).
d. Only when OSHA has specific medical surveillance requirements for a substance in comprehensive standard
e. Only in case of an accident or toxic chemical spill.
f. When one or more workers are injured from the physical stress of routine motions.
g. Other _____ (record verbatim).
h. Don't know.
i. Refused.

13. Please indicate when these medical services are provided (record as many as apply):

a. Before employment.
b. Before placement in a job involving exposure to toxic substances.
c. At periodic intervals during employment.
d. After a spill, accident, or other unusual event.
e. At termination of employment.
f. Other _____ (record verbatim).
g. Don't know
h. Refused.

14. How long has your medical surveillance program been in place?

a. _____ (record verbatim).

15. Which of the following purposes is your medical program designed to serve? (Record all that apply):

a. General health and fitness for key employees or managers.
b. General health and fitness for all employees.
c. Detection of substance abuse.
d. Detection of employee exposures to potentially harmful chemicals.
e. Screening for potential employee susceptibility to workplace exposures or disease.
f. Establish baseline health data for analysis of future Workers' Compensation claims.
g. Establish physical capability for work assignments.
h. Detection of potential musculoskeletal injuries (such as may be due to repetitious physical tasks).
i. Evaluate effectiveness of engineering controls.
j. Other _____ (record verbatim).
k. Don't know.
l. Refused.

16. Does your establishment provide treatment for:

a. Only occupational-related conditions?
b. Only non-occupational-related conditions?
c. All conditions?
d. No conditions?
e. Other _____ (record verbatim).
f. Don't know.
g. Refused.

17. For pre-employment medical surveillance, please indicate which of the following tests are performed (record as many as apply):

a. General physical examination.
b. Written medical questionnaire.
c. Audiometric examination.
d. Work history.
e. Pulmonary function.
f. Complete blood count.
g. Serum chemistries.
h. Urinalysis.
i. Chest x-ray.
j. Cholinesterase activity.
k. Musculoskeletal examination.
l. Other _____ (record verbatim)
m. None.
n. Don't know.
o. Refused.

18. How many people typically receive pre-employment medical surveillance per year?

a. _____ (record verbatim)

19. For pre-job placement medical surveillance, please indicate which of the following tests are performed (record as many as apply):

a. General physical examination.
b. Written medical questionnaire.
c. Audiometric examination.
d. Work history.
e. Pulmonary function.
f. Complete blood count.
g. Serum chemistries.
h. Urinalysis.
i. Chest x-ray.
j. Cholinesterase activity.
k. Musculoskeletal examinations.
l. Other _____ (record verbatim).
m. None.
n. Don't know.
o. Refused.

20. How many people typically receive pre-job placement medical surveillance per year?

a. _____ (record verbatim).

21. For periodic medical surveillance, please indicate which of the following tests are performed and at what frequency (record as many as apply):

	Frequency
a. General physical examination.	
b. Written medical questionnaire.	
c. Audiometric examination.	i. varies with age.
d. Pulmonary function	ii. every 3–5 years.
e. Complete blood count	iii. every 2 years.
f. Serum chemistries	iv. every year.
g. Urinalysis	v. Other _____ (record).
h. Chest x-ray	
i. Cholinesterase activity	vi. don't know.
j. Musculosketal examinations.	vii. refused.
k. Other _____ (record verbatim).	viii. varies with length of employment.
l. None	
m. Don't know	
n. Refused	

22. How many people typically receive periodic medical surveillance per year?

a. _____ (Record verbatim).

23. After a spill, accident, or other unusual event, please indicate which of the following tests are performed (record as many as apply):

a. General physical examination.
b. Written medical questionnaire.
c. Work history.
d. Audiometric examination.

e. Pulmonary function.
f. Complete blood count.
g. Serum chemistries.
h. Urinalysis.
i. Chest x-ray.
j. Cholinesterase activity.
k. Musculo-skeletal examination.
l. Have never had an accident, spill or other unusual event.
m. Other _____ (record verbatim).
n. None
o. Don't know.
p. Refused.

24. For employment termination medical surveillance, please indicate which of the following tests are performed (record as many as apply):
a. General physical examination.
b. Written medical questionnaire.
c. Work history.
d. Audiometric examination.
e. Pulmonary function.
f. Complete blood count.
g. Serum chemistries.
h. Urinalysis.
i. Chest x-ray.
j. Cholinesterase activity.
k. Musculoskeletal examination.
l. Other _____ (record verbatim).
m. None
n. Don't know.
o. Refused.

25. How many people typically receive employment termination medical surveillance per year?
a. _____ (record verbatim).

26. Who decides which of the indicated tests are performed? (Record all that apply):
a. Examining physician.
b. Company established protocol.
c. Perform only OSHA mandated procedures.
d. Other _____ (record verbatim).

27. How are the tests selected?
a. Based on the effects the chemicals may cause.
b. Based on knowledge of the physical requirements of the job.
c. Based on needs for general liability insurance coverage.
d. Based on requirements for identifying drug and alcohol dependence.
e. Based on employee complaints.
f. Other _____ (record verbatim).
g. Don't know.
h. Refused.

28. For those employees exposed to substances for which OSHA has specific medical surveillance requirements, what medical tests or procedures are provided in addition to those which are required?
a. None.
b. Other _____ (record verbatim) skip if 8a=zero.
c. Don't know.
d. Refused.

29. Are any of the workers at this facility required to wear respirators? (Record all that apply):
a. Yes, by OSHA standards.
b. Yes, by establishment requirements.
c. No.
d. Don't know.
e. Refused.
If "c, d, or e", go to Q30.

30. What type of respirators do they use? (Record all that apply):
a. Dust mask.
b. Quarter, half, or full face negative pressure cartridge.
c. Powered air purifying respirator.
d. Supplied air respirator.
e. Self contained breathing apparatus.
f. None.
g. Don't know.
h. Refused.

31. Which of the following tests does your establishment give to workers who are required to wear respirators? (Record all that apply):
a. General physical examinations.
b. Pulmonary function.
c. Chest x-ray.
d. Stress test.
e. Work history.
f. Other _____ (record verbatim).
g. None.
h. Don't know.
i. Refused.

32. Are there medical facilities at your location?
a. Yes.
b. No.
c. Don't know.
d. Refused.

33. Do you have a formal arrangement with any of the following outside sources to provide medical surveillance services? (Record as many as apply):
a. Occupational health clinic.
b. Other clinic, hospital, or HMO.
c. Private physician.
d. Mobile medical van service.
e. Insurance carrier.
f. Other _____ (record verbatim).
g. None.
h. Don't know.
i. Refused.

34. Who in your establishment is responsible for (sets policy for) your medical surveillance program? (Record all that apply):
a. Corporate medical director.
b. Corporate health and safety director.
c. Plant manager.
d. Company owner.
e. Outside physician.
f. Other _____ (record verbatim).
g. Don't know.
h. Refused.

35. On average, how much time per week does this individual(s) devote to this program?
a. Full time.
b. More than 20 hours per week.
c. 1 day per week.
d. 2–3 hours per week.
e. Less than 2–3 hours per week.
f. Don't know.
g. Refused.

36. What information does your establishment provide to the responsible person to determine what medical surveillance is appropriate for employees exposed to chemicals or to repetitive stress? (Record as many as apply):
a. List of chemicals.
b. Material safety data sheets.
c. Other hazard information.
d. Information about work operations.
e. Exposure data.
f. Personal protective equipment used.
g. Other _____ (record verbatim).

37. What health professionals are involved in your medical surveillance program including any contractors you hire, for example, HMO staff?

	No. of each type
a. Certified occupational physician	
b. Other licensed physician	
c. Certified occupational health nurse	
d. Other registered nurse	
e. Licensed practical nurse	
f. Physician's assistant	
g. Technician	
h. Other_____ (record verbatim)	
i. Don't know	
j. Refused	

38. What information does your establishment provide to the health professionals to determine what medical surveillance is appropriate for employees exposed to chemicals or to repetitive physical stress? (Record as many as apply):
a. List of chemicals.
b. Material safety data sheets.
c. Other hazard information.
d. Information about work operations.
e. Exposure data.
f. Personal protective equipment used.
g. Other _____ (record verbatim).

39. How much time per week does this individual(s) devote to this program?
a. Full time.
b. More than 20 hours per week.
c. 1 day per week.
d. 2–3 hours per week.

e. Less than 2–3 hours per week.
f. Don't know.
g. Refused.

40. On average, to the nearest hour, how many hours is an employee away from work for medical examination per year?
a. 1 hour.
b. 2 hours.
c. 3 hours.
d. other _____ (record verbatim).
e. Don't know.
f. Refused.

41. Are medical questionnaires used to select employees who will be provided further medical examinations or tests?

	Preplacement	Periodic
a. Yes		
b. No		

42. How often does your establishment review all of your medical records to identify any notable trends?
a. More than once a year.
b. Less than once a year.
c. No review has been deemed necessary.
d. Never.
e. Other _____ (record verbatim).
f. Don't know.
g. Refused.
If "c, d, f or g", go to Q44.

43. Who is responsible for reviewing the medical records to identify trends? (Record as many as apply):
a. Physician.
b. Occupational health nurse.
c. Physician's assistant.
d. Industrial hygienist.
e. Other _____ (record verbatim).

44. Are individual employees notified of the specific results of their medical examination?
a. Yes.
b. No.
c. Don't know.
d. Refused.

45. If abnormal test results are found, what action is taken with regard to the individual employees with the abnormal results? (Record as many as apply):
a. Medical removal protection is provided by removing employees with abnormal results from environment where exposure may be occurring.
b. Referred to personal physician.
c. Treatment provided by employer.
d. Other _____ (record verbatim).
e. Don't know.
f. Refused.

46. How many workers had abnormal test results that were possbily work related in the past year?
a. _____ (Record number).
b. None.
c. Don't know.
d. Refused.

47. How many workers have changed jobs at your establishment in the past year due to a medical surveillance result?
a. _____ (Record number).
b. None.
c. Don't know.
d. Refused.

48. Do you use your medical surveillance results to implement or to change the following programs? (Record as many as apply):
a. Exposure monitoring/assessment.
b. Training.
c. Engineering controls.
d. Personal protective equipment.
e. Work practices.
f. Administrative controls.
g. Other _____ (record verbatim).
h. Don't know.
i. Refused.

49. As a result of conducting a medical surveillance program, has your establishment noticed changes in any of the following? (Record all that apply):
a. Illness.
b. Injuries.
c. Insurance costs.
d. Legal expenses.
e. Productivity.
f. Employee relations.
g. Other _____ (record verbatim).
h. Don't know.
i. Refused.

50. What would you estimate the percent change to be? (Record all that apply):
a. Increase in illness by _____.
b. Decrease in illness by _____.
c. Increase in injuries by _____.
d. Decrease in injuries by _____.
e. Increase in insurance costs by _____.
f. Decrease in insurance costs by _____.
g. Increase in legal expenses by _____.
h. Decrease in legal expenses by _____.
i. Increase in productivity by _____.
j. Decrease in productivity by _____.
k. Other _____.
l. Don't know.
m. Refused.

Biological Monitoring

51. Does your establishment perform biological monitoring (that is, take blood or urine samples) to evaluate worker exposure to:
a. Chemicals for which OSHA has adopted comprehensive substance specific standards?
b. Chemicals for which OSHA has adopted exposure limits in the z-table (PELs, Air Contaminants Rule)?
c. Other chemicals (non-OSHA regulated)?
d. Ergonomic hazards?

52. For what substances do you perform biological monitoring:
a. _____ (record verbatim).
b. Don't know.
c. Refused.

53. Who in your establishment is responsible for (sets policy for) your biological monitoring program? (Record all that apply):
a. Corporate physician.
b. Certified industrial hygienist on staff.
c. Industrial Hygienist on staff.
d. Plant manager.
e. Company owner.
f. Other _____ (record verbatim).
g. Don't know.
h. Refused.

54. Who reviews the results of your establishment's biological monitoring? (Record as many as apply):
a. Corporate medical staff.
b. Corporate industrial hygiene staff.
c. Plant manager.
d. Company owner.
e. Outside consultant.
f. Laboratory.
g. Outside clinic or hospital.
h. Other _____ (record verbatim).
i. Don't know.
j. Refused.

55. Are the results of the biological monitoring used to (record as many as apply):
a. Identify employees at increased risk.
b. Indicate whether a leak, spill, or unusual situation has occurred.
c. Identify engineering control problems.
d. Change work practices.
e. Identify problems with personal protective equipment.
f. Change administrative controls.
g. Assign employees to different jobs.
h. Terminate employees for health reasons.
i. Have never had a result suggesting operational changes needed.
j. Other _____ (record verbatim).
k. Don't know.
l. Refused.

56. How many workers have changed jobs at your establishment in the past year due to a biological monitoring result?
a. _____ (record number).
b. None.
c. Don't know.
d. Refused.

Exposure Assessment

Now we would like to ask you some questions about your establishment's exposure assessment program. By

exposure assessment, we mean all activities that are conducted to evaluate actual or potential employee exposure to toxic substances and non-chemical hazards. Exposure assessment may or may not include monitoring or sampling.

57. Do you have a formal exposure assessment program in your organization?

a. Yes.
b. No.
c. Don't know. If "b, c or d", go to Q67.
d. Refused.

58. Who in your establishment is responsible for (sets policy for) your exposure assessment program? (Record all that apply):

a. Certified industrial hygienist on staff.
b. Industrial hygienist on staff.
c. Safety engineer.
d. Industrial hygiene technician.
e. Plant manager.
f. Company owner.
g. Company policy.
h. Other _____ (record verbatim).
i. Don't know.
j. Refused.

59. Who performs this exposure assessment? (Record all that apply):

a. Certified industrial hygienist on staff.
b. Industrial hygienist on staff.
c. Safety engineer.
d. Industrial hygiene technician.
e. Plant manager.
f. Outside consultants.
g. Insurance carriers.
h. Other _____ (record verbatim).
i. Don't know.
j. Refused.

60. What substances and other hazards are addressed by your exposure assessment program? (Record all that apply):

a. Only substances for which OSHA specifically requires monitoring (respondents will be prompted with a list of substances regulated by OSHA under 6(b) rulemaking).
b. All substances with permissible exposure limits set by OSHA.
c. All substances with Threshold Limit Values set by ACGIH.
d. Only substances you know are hazardous.
e. Every substance used.
f. Biological agents.
g. Noise.
h. Radiation.
i. Ergonomic hazards.
j. Other _____ (record verbatim).
k. Don't know.
l. Refused.

61. Do you perform any of the following as part of your exposure assessment program? (Record as many as apply):

a. Compile workplace inventory of chemical agents.
b. Compile workplace inventory of physical and biological agents and ergonomic stressors.
c. Group jobs by hazard for control or evaluation.
d. Qualitatively rank exposure risks.
e. Document qualitative exposure assessment results.
f. Develop quantitative exposure monitoring strategy or protocol.
g. Evaluate monitoring results.
h. Record exposure assessments.
i. Reevaluate exposure assessment based on new regulation, employee complaint or health effects data.
j. Reevaluate exposure assessment after changes in chemicals used or changes in process.
k. Reevaluate exposure assessment based on seasonal changes.
l. Other _____ (record verbatim).
m. None.
n. Don't know.
o. Refused.

62. What percentage of each of the following groups of workers are included in your exposure assessment program? (Record all that apply):

a. Administrative. _____
b. Other. _____

63. How does your establishment decide to include a substance in your exposure assessment program? (Record all that apply):

a. New chemical in workplace.
b. Employee complaint.
c. Employee symptoms.
d. Information on material safety data sheet.
e. Required by OSHA regulation.
f. All substances are included.
g. Include substances with established exposure limits.
h. Other _____ (record verbatim).
i. Don't know.
j. Refused.

64. Which of the following activities are initiated as a result of your exposure assessment program? (Record all that apply):

a. Additional employee exposure monitoring.
b. Medical surveillance.
c. Use of personal protective equipment.
d. Implementation of process design change or engineering controls.
e. Development of internal exposure guidelines.
f. Toxicology testing.
g. Training.
h. Work practices.
i. Administrative controls.
j. Exposure assessments have never indicated need for modifications.
k. Other _____ (record verbatim).
l. Don't know.
m. Refused.

65. As a result of conducting an exposure assessment program, including use of monitoring if applicable, has your establishment noticed changes in any of the following? (Record all that apply):

a. Illness.
b. Injuries.
c. Insurance costs.
d. Legal expenses.
e. Productivity.
h. Employee relations.
i. Other _____ (record verbatim).
j. Don't know.
k. Refused.

66. What would you estimate the percent change to be? (Record all that apply):

a. Increase in illness by _____.
b. Decrease in illness by _____.
c. Increase in injuries by _____.
d. Decrease in injuries by _____.
e. Increase in insurance costs by _____.
f. Decrease in insurance costs by _____.
g. Increase in legal expenses by _____.
h. Decrease in legal expenses by _____.
i. Increase in productivity by _____.
j. Decrease in productivity by _____.
k. Other _____.
l. Don't know.
m. Refused.

Exposure Monitoring

67. Does your program include exposure monitoring/sampling?

a. Yes.
b. No.
c. Don't know. If "b, c, d", go to Q85.
d. Refuse.

68. If the program does not include monitoring/sampling, what factors are considered in determining if employees are being overexposed to a toxic chemical? (Record all that apply):

a. Objective quantitative determination of exposure (based on calculations, model, or other estimate).
b. Evaluation of toxicity or degree of other hazards of chemicals present.
c. Changes in chemical or amount of chemical present.
d. Accidental spill or leakage.
e. Process or changes in process.
f. Changes in control measures.
g. Other _____ (record verbatim).

69. Who in your establishment is responsible for (sets policy for) your exposure monitoring program? (Record all that apply):

a. Certified industrial hygienist on staff.

b. Industrial hygienist on staff.
c. Safety engineer.
d. Industrial hygiene technician.
e. Plant manager.
f. Company owner.
g. Don't know.
h. Refused.

70. Who performs your employee exposure monitoring? (Record as many as apply):
a. Company staff.
b. Outside Consultants.
c. Insurance carrier.
d. Other _____ (record verbatim).
e. Don't know.
f. Refused.

71. What elements are considered when assessing exposures and determining the need to monitor? (Record as many as apply):
a. Physical characteristics of substance.
b. Location of chemical in relation to worker.
c. Use of engineering controls.
d. Environmental controls.
e. Frequency of exposure or operations.
f. Results of previous exposure monitoring.
g. Toxicity of chemical.
h. Use of personal protective equipment.
i. Medical surveillance findings.
j. Published information about potential health hazards.
k. Other _____ (record verbatim).
l. Don't know.
m. Refused.

72. What types of data do you use in deciding whether to conduct exposure monitoring for a substance? (Record as many as apply):
a. Previous data from same operation located in same work area.
b. Data from other companies with similar work operations and chemicals.
c. Don't use data as a determining factor with regard to monitoring.
d. Data from similar operations in same company.
e. Data from same operations in different area.
f. Medical surveillance findings.
g. Other _____ (record verbatim).
h. Don't Know.
i. Refused.

73. For what percentage of your employees do you perform exposure monitoring?
a. _____ (record verbatim).
b. Don't know.
c. Refused.

74. What are your criteria for deciding which employees are included in your exposure monitoring/sampling?
a. Statistically random sample of workers from those in a particular work operation.
b. Workers likely to have the highest exposures in the work operation.
c. All workers in a particular work operation.
d. Workers in work areas adjacent to the selected work operation.
e. All workers.
f. Workers with unusual medical surveillance results.
g. Other _____ (record verbatim).
h. Don't know.
i. Refused.

75. What frequency of employee exposure to the substance do you consider necessary to decide to conduct monitoring/sampling?
a. Constant—daily.
b. Infrequent or incidental–daily.
c. Infrequent–process determined.
d. One exposure.
e. Substance dependent.
f. Don't know.
g. Refused.

76. Do you monitor:
a. Every working shift?
b. Selected shifts?
c. Every employee in the shift being monitored?
d. Representative employees for the shift being monitored?

77. Is monitoring done routinely or are there specific situations or conditions which trigger monitoring/sampling?
a. Routinely.
b. Triggered by specific situations or conditions.
c. Don't know.
d. Refused. If a, c or d, go to Q79.

78. If exposure monitoring is triggered by specific situations or conditions, which of the following are considered? (Record as many as apply):
a. Objective quantitative determination of exposure (based on calculations, model or other estimate).
b. Evaluation of toxicity or degree of other hazard of chemicals present.
c. Changes in chemical or amount of chemical present.
d. Accidental spill or leakage.
e. Process of changes in process.
f. Requirement of an OSHA regulation.
g. Changes in control measures.
h. Other _____ (record verbatim).
i. Refused.
j. Worker complaint.

79. How often do you monitor or sample?
a. As often as required by OSHA standards.
b. At least once a year.
c. At least twice a year.
d. At least four times per year.
e. Only after a spill, leak or unusual event.
f. Other _____ (record verbatim).
g. Refused.

80. What type and number of air samples were collected during the calendar year and for how many exposed workers?

	No. of samples	No. of exposed workers
Personal		
a. Full shift		
b. Short-term		
c. Peak		
General area		
d. Full shift		
e. Short-term		
f. Peak		

81. How do you define overexposure? (Record all that apply):
a. >PEL
b. <PEL but <½ PEL
c. >TLV
d. >ceiling/excursion
e. >STEL
f. Other _____ (record verbatim).
g. Don't know.
h. Refused.

82. What percent of all monitoring samples find overexposure?
a. _____ percent.
b. Don't know. If answer "a" is = 0 or b or c, go to Q84.
c. Refused.

83. Do you notify individual workers of their specific results?
a. Yes.
b. No.
c. Don't know.
d. Refused.

84. Do you use your employee sampling results to implement or to change the following programs? (Record as many as apply):
a. Additional employee exposure monitoring.
b. Medical surveillance.
c. Use of personal protective equipment.
d. Implementation of process design change or engineering controls.
e. Development of internal exposure guidelines.
f. Toxicology testing.
g. Training.
h. Work practices.
i. Administrative controls.
j. Other _____ (record verbatim).
k. Don't know.
l. Refused.

Potential Ergonomic Hazard Identification

85. We would like to ask a series of questions related to specific work activities or processes in your facility. In your establishment do you perform _____ activities? (from a prompt list of possible ergonomic risk factors)

86. How about _____ activities? (Also from prompt list.)

Ergonomics

Ergonomic analysis entails looking at how workers and machines interact.

87. Have your ever performed an ergonomic analysis for any of the specific jobs or work operations in your facility?

a. Yes.
b. No. If b, c, or d, skip to 291.
c. Don't know.
d. Refused.

88. Which of the following elements were included in your ergonomic analysis? (Record all that apply):

a. Analyzing injury and illness records for evidence of cumulative trauma disorders.
b. Cataloging work content.
c. Analyzing work content with respect to potential biomechanical risk factors (forceful movements, use of vibrating tools, or repetitive movements) for cumulative trauma disorders.
d. Measuring and documenting time required to perform each work task.
e. Analyzing production records.
f. Taping and analyzing video tapes of jobs.
g. Developing check-lists to identify undesirable worksite conditions or worker activities that contribute to cumulative trauma disorders.
h. Developing study of the work environment.
i. Other _____ (record verbatim).
j. Don't know.
k. Refused.

89. What actions have you taken resulting from the information generated by the ergonomic analysis? (Record all that apply):

a. Modification of employee position relative to work.
c. Substitution of or redesign of tools.
d. Increased level of automation in work operations.
e. Employee work breaks were increased.
f. Employee job rotations were modified.
g. Improved training provided.
h. No action was appropriate. If h, i, k, or l, go to Q91.
j. Other_____ (record verbatim).
k. Don't know.
l. Refused.

90. Have you noticed a reduction in any of the following as a result of these ergonomic changes?

a. Absenteeism.
b. Turnover.
c. Insurance claims.
d. Workers compensation rates.
e. Injury/illness rates.
f. Other _____ (record verbatim).
g. Don't know.
h. Refused.

Screening Questions

91. Do you have a hazard communication program in place?

a. Yes.
b. No.
c. Don't know.
d. Refused.

92. Does your facility have a written occupational safety and health program?

a. Yes.
b. No.
c. Don't know. If "b, c or d" go to Q94.
d. Refused.

93. Which of the following is included in the occupational safety and health program?

(Record all that apply):

a. Material hazards information.
b. Lockout/tagout procedures.
c. Hot work procedures.
d. Personal protective equipment use.
e. Remedial action for exposures.
f. Confined space entry procedures.
g. Special procedures for opening process equipment and piping.
h. Other _____ (record verbatim).
i. Don't know.
j. Refused.

94. Does your establishment have any of the following programs:

a. Process hazard management?
b. Process safety management?
c. Risk evaluation program?
d. Job safety analysis?
e. Worker health risk management?
f. Comprehensive safety and health program?

Phase II—Medical Surveillance Follow-up

1. Do all employees complete a pre-employment or pre-placement medical questionnaire?
2. Are questionnaires used to tailor the medical examination to each employee?
3. What kinds of responses from the questionnaire determine that a particular type of exam or test is needed?
4. How frequently is the medical questionnaire administered?
5. Please provide a sample questionnaire and the company protocol regarding the content of medical examinations if possible.
6. Are periodic examinations related to the updated questionnaire? (If not, skip to Q8)
7. What factors on the questionnaire would trigger an examination?
8. Is job assignment or exposure information used to tailor examination and medical procedures? (If not, skip to Q10)
9. How does the company decide what kinds of procedures are necessary for a given job assignment or type of exposure?
10. Are ergonomic factors considered?
11. What factors determine the content of periodic examinations and procedures?
12. Do changes in the nature or extent of exposure alter the content of periodic examinations? (If not, skip to Q14)
13. What criteria are used to determine how the content of periodic examinations should change?
14. What are the procedures used to ensure communication between corporate industrial hygiene, toxicology, and medical personnel?
15. What is the form and frequency of communication (e.g., monthly meetings, scheduled written reports)?
16. What specific kinds of information are shared between these departments?
17. Who is responsible for analyzing employee exposure and toxicologic data to determine what medical tests are appropriate?
18. What criteria are used to decide on appropriate tests?
19. Does your company include general preventive medical procedures as part of the medical examination? (If not, skip to Q21)
20. What tests and procedures are used for general prevention?
21. What specific examination procedures are used to determine fitness for wearing respirators? (If no respirators then skip to Q23)
22. How are employees selected for this examination?
23. Does your company provide medical surveillance for any of the following substances? If so, what tests are administered? (Record all that apply):

a. Asbestos _____ Test(s) _____, _____
b. Benzene _____ Test(s) _____, _____
c. Formaldehyde _____ Test(s) _____, _____
d. Ethylene oxide _____ Test(s) _____, _____
e. Lead _____ Test(s) _____, _____
f. Vinyl Chloride _____ Test(s) _____, _____
g. Cotton dust _____ Test(s) _____, _____
h. Inorganic Arsenic _____ Test(s) _____, _____
i. Dibromochloropropane _____ Test(s) _____, _____
j. Acrylonitrile _____ Test(s) _____, _____
k. Don't know _____ Test(s) _____, _____
l. Refused _____ Test(s) _____, _____

24. Does your company provide medical surveillance to employees who are exposed to other toxic substances? (If not, go to Q26)

25. For what other substances does your company perform medical surveillance and what tests do you use for each?

26. Do exposure levels determine which employees will receive medical surveillance? (If not, skip to Q29)

27. What level of exposure is used to trigger surveillance (PEL, TLV, action level, STEL, ceiling)?

28. What medical findings would result in the company removing an employee for exposure?

29. What steps are taken if medical surveillance reveals that an exposure-related illness or problem may be present?

30. Describe the results you have obtained from these steps.

31. For what substances do you perform biological monitoring?

32. If more biological monitoring methods were available, would you use them?

33. What medical findings would result in follow-up evaluation or referral of the employee to his/her personal physician?

34. How does the company decide that a medical finding is abnormal and requires action of some sort?

35. Does the company refer employees to their personal physicians for treatment, or is treatment provided by company personnel?

36. How are medical findings used to monitor the effectiveness of exposure control programs?

37. Who oversees the results of the medical surveillance program overall?

38. What information is routinely given to the workers regarding the results of their medical examinations?

39. What information is provided to the non-medical personnel (e.g., industrial hygienist, epidemiologist) of the company regarding the results of the medical examinations?

40. Why does the company do medical surveillance?

41. What are the perceived benefits?

42. What is the company's criterion for determining that the medical program is "effective"?

43. Does the company assess effectiveness to justify the costs of the program?

44. What is the approximate cost per employee for your company's annual medical surveillance program?

45. Please provide what ever information you have regarding the costs of surveillance, including the costs of specific test or procedures and estimates of time expended by medical personnel in conducting the surveillance.

46. Over the past ten years, has the amount of medical surveillance provided by your company changed? (If not, skip Q47)

47. What are the reasons for this change?

Phase II—Job Safety/Health Risk Analysis

Safety Operations

1. Who performs the hazard analysis for workplace jobs, work functions or duties (for potential problems related to chemical exposure, fire, explosion, spills, ergonomic factors)? (Record all that apply):
   a. In-house staff.
   b. Outside consultants.
   c. Combination of both.
   d. Other _____ (record verbatim).
   e. Don't know.
   f. Refused.

2. Are written reports prepared for each hazard analysis that is performed?
   a. Yes.
   b. No.
   c. Don't know.
   d. Refused.

3. Which of the following does each hazard analysis include? (Record all that apply):
   a. A description of the results.
   b. A list of recommendations.
   c. The actions taken as a result of the hazard analysis.
   d. Other _____ (record verbatim).
   e. Don't know.
   f. Refused.

4. How many days of work (person-days) are required to perform the hazard analysis, including providing a written report?
   a. _____ person-days (record verbatim).
   b. Don't know.
   c. Refused.

5. Are hazard analyses performed on process units before they are started up initially or only after they have been restarted?
   a. Started up initially.
   b. Restarted.
   c. Both.
   d. None.
   e. Don't know.
   f. Refused.

Safety Rules

6. How are safety and health operating rules communicated to employees? (Record all that apply):
   a. Written notification.
   b. Oral notification.
   c. Classroom training.
   d. On-the-job training.
   e. Informally.
   f. Other _____ (record verbatim).
   g. Not communicated.
   h. Don't know.
   i. Refused.

7. How are the safety and health operating rules enforced? (Record all that apply):
   a. Supervisor.
   b. Safety director.
   c. Safety committee.
   d. Labor agreement.
   e. Other _____ (record verbatim).
   f. No one.
   g. Don't know.
   h. Refused.

8. Is there a safety and health committee?
   a. Yes.
   b. No. If "b, c, or d" go to Q10.
   c. Don't know.
   d. Refused.

9. Does the safety and health committee have representatives from: (Check all that apply):
   a. Labor.
   b. Management.
   c. Other _____ (record verbatim).
   d. Don't know.
   e. Refused.

10. Has your establishment noticed any of the following changes as a result of implementing a written occupational safety and health program? What is the estimated percent change? (Record all that apply):
   a. Reduction in illness by _____.
   b. Reduction in injuries by _____.
   c. Reduction in insurance costs by _____.
   d. Reduction in legal expenses by _____.
   e. Increased productivity by _____.
   h. Other _____ (record verbatim).
   i. Don't know.
   j. Refused.

11. What programs are used to control and check the safety programs of outside contractors?
   a. _____ (record verbatim).
   b. None.
   c. No contractors.
   d. Don't know.
   e. Refused.

Maintenance

12. How often are formal inspections and tests of critical equipment in each process conducted?
   a. Every month.
   b. Twice a year.
   c. Annually.
   d. Never.
   e. Don't know. If "b, c or d", go to Q15.
   f. Refused.

13. Do you have any personnel whose sole or primary duty is to inspect and test equipment?

a. Yes.
b. No.
c. Don't know.
d. Refused.

14. How many days of work (person-days) are spent on inspecting and testing critical equipment each month?
a. _____ person-days per month (record verbatim).
b. Don't know.
c. Refused.

15. Do you use maintenance workers to do the following? (Record all that apply):
a. Routine maintenance.
b. Repair of breakdowns.
c. Inspection and testing.
d. Specific projects.
e. Turnaround.
f. Other _____ (record verbatim).
g. Don't have maintenance workers.
h. Don't know.
i. Refused.

16. Are operators expected to perform routine maintenance on their equipment?
a. Yes.
b. No.
c. Don't know.
d. Refused.

17. Do you have more than 10,000 pounds (or 1,500 gallons) of any flammables stored in one location at your facility?
a. Yes.
b. No. If "b, c, or d", go to Q19.
c. Don't know.
d. Refused.

18. Do these flammables consists only of hydrocarbons that are used on-site for fuel?
a. Yes.
b. No.
c. Don't know.
d. Refused.

19. Do you have flammable liquids on site for storage or transfer only, and that are stored below their boiling point without the use of chilling or refrigeration?
a. Yes, stored below boiling point *without* chilling or refrigeration.
b. No, stored below boiling point *with* chilling or refrigeration.
c. Don't know.
d. Refused.

Hot Work (Welding, Burning, Cutting)

20. Do you issue hot work permits to your own employees at your facility?
a. Yes.
b. No.
c. Don't know.
d. Refused.

21. Do you issue hot work permits to contract employees at your facility?
a. Yes.
b. No. If no hot work permits go to Q22.
c. Don't know.
d. Refused.

22. How many permits do you issue annually?
a. _____ (record number).
b. Don't know.
c. Refused.

Training

23. How is it determined what information employees need to do their jobs?
a. _____ (Record verbatim).
b. Don't know.
c. Refused.

24. How do you provide the needed information to employees?
a. _____ (Record verbatim).
b. Don't know.
c. Refused.

25. How is it determined that employees know correct procedures?
a. _____ (Record verbatim).
b. Don't know.
c. Refused.

26. How do you evaluate whether employees are performing operations correctly?
a. _____ (Record verbatim).
b. Don't know.
c. Refused.

27. What types of workers receive training? (check all that apply)
a. All employees.
b. All production employees (including supervisors).
c. New employees.
d. Production workers assigned to a process unit or work activity where they have not previously worked.
e. Contract employees.
f. Maintenance employees.
g. Other _____ (record verbatim).
h. Don't know.
i. Refused.

28. Does training for non-contract employees (i.e. those who work directly for your firm) address the following topics? (Record all that apply):
a. Potential hazards of the process.
b. Procedures and safe practices applicable to the process.
c. Emergency response.
d. Proper use of personal protective equipment.
e. General safety and health rules of the facility.
f. Changes to the process they work with.
g. Other _____ (record verbatim).
h. Don't know.
i. Refused.

29. How are employees informed of the hazardous properties of the materials with which they work?
a. _____ (Record verbatim).
b. They aren't.
c. Don't know.
d. Refused.

30. How often are training sessions scheduled?
a. Monthly.
b. As needed.
c. Only for new hires.
d. Other _____ (Record verbatim).
e. Don't know.
f. Refused.

31. How many training sessions were given last year in 1989?
a. Number of sessions _____.
b. Don't know.
c. Refused.

32. Typically, how many people attend a training session?
a. Number of workers _____.
b. Number of trainers _____.
c. Don't know.
d. Refused.

33. On average, how long does each training session last?
a. _____ man-hours (or fraction thereof).
b. Don't know.
c. Refused.

34. Do contract employees receive a briefing (or short training session) which addresses the following topics? (Record all that apply):
a. Potential hazards of the process.
b. Procedures and safe practices applicable to the process.
c. Emergency response.
d. General safety rules of the facility.
e. Other _____ (record verbatim).
f. Don't know.
g. Refused.

Emergency Procedures

a. Yes.
b. No.
c. Don't know.
d. Refused.

36 Which of the following possible emergencies have been considered? (Yes, no, n/a):
a. Fire.
b. Explosion.
c. Tank rupture.
d. Loss of utilities.
e. Severe weather.
f. Bomb threat.
g. Flood.
h. Gas release.
i. Steam line rupture.
j. Spills.
k. Water main rupture.
l. Computer failures.
m. Lightning.
n. Other.

37. What system is in place to update emergency procedures?
a. _____ (Record verbatim).
b. None.
c. Don't know.
d. Refused.

38. What needed outside services have been incorporated into your emergency response plan?
a. Police.
b. Fire.
c. Ambulance.
d. Heavy equipment operator.
e. Bulldozers.
f. Cranes.
g. Helicopters.
h. Other _____ (record verbatim).
i. Don't know.
j. Refused.

Processes

39. OSHA has constructed a breakdown of plant processes or operations that might be analyzed separately during a hazard analysis. I'm going to read a list of processes that many firms engaged in your type of business often have. I'd like you to tell me which, if any, of these processes are present at your facility. Also, if your company groups these processes for hazard analysis purposes, please give me your list. Do you have a _____? (SIC-specific prompt list of processes will be provided).
(1) Process a.
(2) Process b.
(3) Process c. (etc.).
(4) Don't know. If (4) or (5) terminate.
(5) Refused.

40. Are there any other processes or operations present that I did not mention?
(1) Process a.
(2) Process b.
(3) Process c. (etc.).
(4) Don't know.
(5) Refused.

41. Have you compiled any of the following types of information for individual processes? (Record all that apply):
a. Process flow diagram.
b. Process chemistry.
c. Maximum intended inventory of hazardous chemicals.
d. Safe upper and lower limits for operating procedures.
e. Safety and health results of operating outside these limits.
f. Equipment design information.
g. Written operating procedures.
h. Other _____ (record verbatim).
i. None.
j. Don't know.
k. Refused.

42. Which of the following are addressed in your operating procedures for individual processes? (Record all that apply):
a. Emergency operations including emergency shutdown.
b. Start-up following downtime.
c. Safety equipment available for use with this process.
d. The function of that safety equipment.
e. Measures to be taken if physical contact or airborne exposure occurs.
f. Other special or unique hazards associated with this process.
g. Other _____ (record verbatim).
h. Don't know.
i. Refused.

43. Does someone review the operating procedures for agreement with the following?
(1) Hazardous chemical information for this process.
(2) Technical design information for this process.
(3) Equipment design information for this process.
a. Yes.
b. No.
c. Don't know.
d. Refused.

44. When changes are made in the technology of an operation, is the compiled information updated to reflect the change?
a. Yes.
b. No.
c. Don't know.
d. Refused.

45. Is there a program or procedure in place to conduct an audit to ensure compliance with recommendations for safety analysis, training, standard operating procedures, etc.
a. Yes.
b. No.
c. Don't know.
d. Refused.

Process Loop

Now, I would like to ask you questions for each of the processes you mentioned earlier.

46. How many workers at this location participate in "process a"?
a. _____ workers (record verbatim).
b. Don't know.
c. Refused.

47. How many processes of this type do you have?
a. _____ (record verbatim).
b. Don't know.
c. Refused.

48. Does this process have any of the following engineering controls? (Record all that apply):
a. General ventilation.
b. Local exhaust ventilation.
c. Noise reduction control.
d. Enclosure.
e. Ergonomically designed workstation, equipment, or tools.
f. Other _____ (record verbatim).
g. None.
h. Don't know.
i. Refused.

49. What is the potential for an explosion, runaway reaction, or gas evolution?
a. _____ (record verbatim).
b. None.
c. Don't know.
d. Refused.

50. How are these potential problems prevented and/or controlled?
a. _____ (record verbatim).
b. Don't know.
c. Refused.

51. What are the potential chemical by-products under normal conditions?
a. _____ (record verbatim).
b. Don't know.
c. Refused.

52. What are the potential chmeical by-products in the event that the process goes out of control?
a. _____ (record verbatim).
b. Don't know.
c. Refused.

53. What are the possible airborne releases?
a. _____ (record verbatim).
b. Don't know.
c. Refused.

54. How are airborne releases controlled or prevented?
a. _____ (record verbatim).
b. Don't know.
c. Refused.

55. What containment systems exist to control material spills?
a. _____ (record verbatim).
b. Don't know.
c. Refused.

56. Have you performed any of the following hazard analyses of this process? (record all that apply)
(1) Exposure assessment.
(2) Fire, explosion prevention.
(3) Spills prevention.
(4) Ergonomic analysis.
(5) Other _____ (record verbatim).
(6) None.
(7) Don't know.
(8) Refused.

End of Loop

[FR Doc. 90-13221 Filed 6-8-90; 8:45 am]
BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by June 18, 1990.

ADDRESSES: Send comments to Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

FOR FURTHER INFORMATION CONTACT: Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: FY 91/92 Folk Arts Application Guidelines.

Frequency of collection: One time.

Respondents: Individuals or households; State or local governments; Non-profit institutions.

Use: Guideline instructions and applications elicit relevant information from individual artists, non-profit organizations, and state, local, or regional art agencies that apply for funding under specific Folk Arts Program categories. This information is necessary for the accurate, fair, and thorough consideration of competing proposals in the peer review process.

Estimated number of respondents: 354.

Average burden hours per response: 20.

Total estimated burden: 7,080.

Anne C. Doyle,

Administrative Services Division, National Endowment for the Arts.

[FR Doc. 90–13362 Filed 6–8–90; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Antarctic Tour Operators Meeting; Meeting

The National Science Foundation announces the following meeting:

Name: Antarctic Tour Operators Meeting

Date & Time: July 12, 1990, 9 a.m.-4:30 p.m.

Place: National Science Foundation, room 1242, 1800 G Street, NW., Washington, DC 20550

Type of Meeting: OPEN

Contact Person: Nadene G. Kennedy, Polar Activities Coordinator, Division of Polar Programs, room 627, National Science Foundation, Washington, DC 20550, Telephone: 202/357–7817.

Purpose of Meeting: Pursuant to the National Science Foundation's responsibilities under the Antarctic Conservation Act (Pub. L. 95–541) and the Antarctic Treaty, the U.S. Antarctic Program Managers plan to meet with Antarctic Tour Operators to exchange information concerning dates and procedures for visiting U.S. Antarctic stations, review the latest Antarctic Treaty Recommendations concerning the environment, newly established Sites of Special Scientific Interest, Specially Protected Areas and other designated special sites, and other items designed to protect the Antarctic environment.

Agenda:

- Introduction and Overview
- Review of 1989–90 Visits to Palmer Station
- 1990–91 Visits to Palmer Station
- 1990–91 Visits to McMurdo Station
- Status of 15th Antarctic Treaty Recommendations Concerning Special Protected Sites (SPA's, SSSI's, SRA's and MPA's) and the Palmer Management Plan being submitted to SCAR
- Develop Uniform Antarctic Treaty Reporting Format for Sites Visited
- Evaluation of Voluntary Guidelines
- Ship Rider Program
- Other Items

John B. Talmadge,

Head, Polar Coordination and Information Section, Division of Polar Programs.

[FR Doc. 90–13417 Filed 6–8–90; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–28088, File No. SR–CBOE–89–28]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Changes Relating to the Eligibility Requirements for RAES in Equity Options

On January 8, 1990, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("Commission"), a proposed rule change to make the eligibility requirements for market makers participating in the CBOE's Retail Automatic Execution System ("RAES") in equity options permanent and to incorporate these eligibility requirements into the Exchange's rules.

The proposed rule change was noticed for comment in Securities Exchange Act Release No. 27775 (March 7, 1990), 55 FR 9382.[3] No comments were received on the proposed rule change.

The existing market maker eligibility requirements to participate on RAES for equity options were approved on a pilot basis in October 1988 and the Exchange proposes that these requirements be made permanent and incorporated into the Exchange's rules.[4] Currently, any Exchange member who is registered as a market maker for an equity options class is eligible to log on RAES in that equity options class provided that the following requirements are met: (1) The market maker must log on RAES using his own acronym and individual password, and all RAES trades to which he is a party must be assigned to and clear into his designated account; (2) the market maker may designate that his trades be assigned to either his individual account or a joint account in which he is a participant; [5] and (3)

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 15 CFR 240.19b–4 (1989).

[3] The Commission extended the existing pilot eligibility requirements on an accelerated basis when the current proposal was noticed. Additionally, the Commission noticed a related proposal by the Exchange (SR–CBOE–89–27) to incorporate formally into its Rules the operational procedures governing RAES in equity options. *See* Securities Exchange Act Release No. 27774 (March 6, 1990), 55 FR 9384.

[4] The Commission approved the CBOE's proposed RAES eligibility requirements for equity options (SR–CBOE–87–47), on a pilot basis, in August 1988. *See* Securities Exchange Act Release No. 25995 (August 15, 1988), 53 FR 31781.

[5] Unless exempted by the Market Performance Committee ("MPC") onlyone participant in a joint

Continued

unless exempted by the MPC, a member must log on RAES in a particular equity option only in person and must continue on the system only so long as he is present in the trading crowd.

The current eligibility requirements include several provisions designed to ensure the maintenance of sufficient levels of market maker participation on RAES for equity options. In particular, in option classes designated by the MPC, any market maker who logs onto RAES in that class at any time during an expiration month must log on RAES in that option class whenever he is present in that trading crowd until the next expiration. The current rules also provide that, in the event there is inadequate RAES participation in a particular options class, the MPC may require market makers who are members of the trading crowd to sign onto RAES "absent reasonable justification or excuse for non-participation." [6]

Members who fail to abide by the eligibility requirements may be fined pursuant to CBOE Rule 6.20 and further disciplinary action may be taken by the Business Conduct Committee ("BCC") under chapter XVII of the Exchange rules. In addition, such failure may also be the subject of remedial action by the MPC, including but not limited to suspending a member's eligibility for participation on RAES and such other remedies as may be appropriate and allowed under chapter VIII of the Exchange rules.

The CBOE has included some minor revisions and clarifications in its proposed Rule 8.16, but the Exchange believes that these modifications do not constitute any substantive changes from the existing market maker eligibility requirements. For example, the proposed eligibility requirements note that the provisions of the Designated Primary Market Maker ("DPM") pilot program also shall apply to classes of options that are included in the RAES pilot program. Additionally, the CBOE proposal moves from the RAES/Equity operational procedures to the RAES/Equity eligibility procedures the provisions granting the CBOE's MPC Floor officials the authority to allow market makers in other classes of options to log on RAES for a particular options class if there is inadequate RAES participation in that option class.[7]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[8] The Commission believes, as it noted when approving the pilot program, that the eligibility requirements are a positive step in strengthening the integrity of the RAES system for equity options.

RAES provides public customer orders with the advantages of automatic execution and a significant portion of public customer orders are executed through RAES. The Commission also believes it is appropriate to approve the eligibility requirements on a permanent basis because the pilot program has operated effectively since its implementation and the Commission has not received any negative comments regarding the pilot program since its inception. Specifically, the pilot has resulted in substantial participation by market makers on RAES in equity options. During April 1990, in the 220 equity option classes traded at 45 stations, the average number of RAES participants was 306 per day. During Expiration Friday April 20, 1990, the average number of market makers on RAES was 4 per equity option class.[9]

The Commission further believes that it is beneficial to incorporate the eligibility requirements, as modified, into the Exchange's rules. The Commission believes that it is important that the rules relating to all aspects of RAES, including the eligibility requirements for market maker participation, be included in the Exchange's Rules in order to provide market participants and investors with easier access to them. Finally, the Commission believes that the proposed revisions to the eligibility requirements are not substantive, but rather serve to clarify the existing pilot program.

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change [SR–CBOE–89–28] is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Dated: June 1, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–13410 Filed 6–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28092; File No. SR–CBOE–90–09]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc., Order Granting Accelerated Approval to Proposed Rule Change Relating to Inactive Nominee Status

On May 3, 1990, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission") pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), [1] and Rule 19b–4 thereunder,[2] a proposed rule change to clarify and consolidate its rules governing nominees,[3] create a new inactive nominee membership classification, and redefine the rules governing membership application procedures.[4]

The proposed rule change was published for comment in Securities Exchange Act Release No. 28033 (May 22, 1990) 55 FR 21990 (May 30, 1990). As of the date of this order, no comments have been received on the proposed rule change.

The CBOE proposes to consolidate Exchange rules and policies governing nominees and create an inactive nominee membership status. Specifically, in an effort to clarify the rules governing nominess, the Exchange proposes to add a definition of the term "nominee" to Rule 1.1; delete language pertaining to nominee accounts from Rule 3.3; and adopt a new Rule 3.8 entitled "Nominees." The Exchange also proposes to amend Rule 3.3 to clarify that organizations that acquire memberships pursuant to Article II,

---

account may use the joint account for trading on RAES in a particular option class.

[6] The current operational procedures for RAES in equity options, as discussed *infra* note 7 and accompanying text, permit the MPC to allow market makers in other classes of options to log on RAES for a options class if there is inadequate RAES participation in that options class.

[7] *See* Securities Exchange Act Release No. 25571 (April 11, 1988) 53 FR 12840 [approving SR–CBOE–88–3].

[8] 15 U.S.C. 78f(b)(5) (1982).

[9] *See* letter from Robert P. Ackermann, Vice President, Legal Services, CBOE, to Mark McNair, Staff Attorney, Division of Market Regulation, SEC, dated May 8, 1990.

[10] 15 U.S.C. 78s(b) (1982).

[11] 17 CFR 200.30–3(a)(12) (1989).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] A "nominee" is an individual who is authorized by the owner or lessee of a regular, transferable membership, in accordance with CBOE Rule 3.8, to conduct business on the floor of the Exchange and to represent such owner or lessee in all matters relating to the Exchange. (*See* CBOE Rule 1.1.) As long as the nominee remains effective, the nominee is deemed a member, subject to the provisions of the CBOE's Constitution and the Rules of the Exchange.

[4] On May 15, 1990, the Exchange amended its proposal to provide that the fee for using the inactive nominee status will be an amount equal to the quarterly membership dues, currently $500, instead of $1,000 as originally proposed. The Exchange also amended the filing to restructure and renumber proposed Rule 3.9 without changing its substance.

section 2.4 of the CBOE's Constitution are represented by the individual member who registered his or her membership for the organization, not a nominee. Further, the proposed rule change makes clear that the owner or lessess of the membership is liable for all claims against the membership arising out of the nominee's representation of the membership, including claims by the Exchange, claims by other members resulting from Exchange transactions, and claims by other members resulting from such transactions for the nominee's own account. Finally, the Exchange proposes to apply the following requirements to all nominees: (1) A nominee must be approved for membership in accordance with the Rules of the Exchange; (2) a nominee may perform floor functions only on behalf of the member or member organization for which he/she is authorized; and (3) should a nominee trade for his/her own account, the member of member organization and the Exchange's Market Surveillance Department must approve such trading.[5]

Paragraph (b) of proposed Rule 3.8 creates an inactive nominee membership status that allows members or member organizations, upon payment of a quarterly fee, to designate an individual as an "inactive nominee." An applicant for inactive nominee status is required to complete all membership application procedures. Under the proposal, an inactive nominee will have no rights or privileges of membership and will have no right of access to the trading floor, unless and until the inactive nominee becomes an effective member pursuant to CBOE Rule 3.10 and all applicable Exchange fees are paid.[6] If an inactive nominee does not become an effective member within six months of approval by the Membership Committee pursuant to new Rule 3.9 (formerly Rule 3.8), or if at any time an individual remains an inactive nominee for six consecutive months, the individual's eligibility for membership will be terminated.

The purpose for the new inactive nominee status is to provide a "parking space" for approved nominees who would be immediately available to replace effective nominees in the event of an unexpected illness, vacations or other absences. In the past, members have accommodated nominee changes by changing nominees from special to regular memberships to avoid the delays of the application procedure.[7] On June 1, 1990, however, the special memberships expired. Accordingly, the CBOE has proposed the creation of inactive nominees to continue to provide a means for timely changes in nominees.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6(c)(3) and 6(b)(2) of the Act which sections provide, among other things, that the CBOE may examine and verify the qualifications of an applicant to become a member and the natural persons associated with such as applicant, and that the rules of the CBOE are designed to provide that any registered broker dealer, or person associated with a broker dealer, may become a member, or associated with a member, of the CBOE. The Commission believes that, by specifying more clearly in the CBOE's rules the procedures applicable to nominees, the Exchange community and prospective members or member organizations will be better informed of the reguirements for obtaining nominee status as well as the rights and obligations of nominees.[8]

In addition, the CBOE, by permitting its members to utilize an "inactive nominee" for the purpose of facilitating personnel changes and absences without the delays of full application procedures subsequent to the termination of the "special memberships" on June 1, 1990, fosters the orderly and equitable administration of securities transactions on the Exchange. Moreover, because all inactive nominees must be fully qualified, the Commission does not believe the efficiency of the CBOE's floor will be jeopardized by the use of inactive nominees.

The Commission believes good cause exists to approve the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof so that CBOE members can continue their present practice of changing nominees on a timely basis.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, [9] that the proposed rule change (SR–CBOE–90–09), is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Dated: June 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–13411 Filed 6–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28989; File No. SR–PSE–90–23]

Self-Regulatory Organizations; Filing of Proposed Rule Change by Pacific Stock Exchange, Inc. Relating to the Membership Committee Composition

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 29, 1990, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend PSE Rule XXII, section 11(c) to change the required composition of its Membership Committee. The text of the proposed rule change is as follows: [Additions italicized; deletions bracketed]

Membership Committee

Sec. 11(b). No change.

(c). The Committee shall be comprised of at least [three] *two* Governors, *one of whom shall be a floor Governor.* [one each from the Option and Equity floors, and shall also be representative of the upstairs population.]

(d). No change.

---

[5] The proposed rule change also makes several technical changes to Rule 3.8.

[6] CBOE Rule 3.10, as amended by this proposal, provides that the owner or lessee of a regular transferable membership must notify the Membership Department in writing that a nominee will become effective on a specific date. The Exchange also proposes to charge a fee of $100 each time a specific nominee's status is changed.

[7] A special membership on the Exchange consists of those persons who were options members in good standing of the Midwest Stock Exchange, Inc., as of May 30, 1980. Special members are entitled to act as market-makers or floor brokers in connection with only those classes of MSE Options which continue to be traded on the CBOE. *See* Article II, § 2.1(d) of the CBOE Constitution.

[8] 15 U.S.C. 78f (b)(2), (c) (1989). The Commission also finds that the fees associated with the maintenance of inactive nominee status and changes in nominee status are consistent with section 6(b)(4) of the Act because they provide for the equitable allocation of dues, fees, and other charges among CBOE members.

[9] 15 U.S.C. 78s(b) (1982).

[10] 17 CFR 200.30–3 (a)(12) (1989).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, PSE Rule XXII, section 11(c) requires that the Membership Committee must be comprised of at least three Governors, one each from the Option and Equity Floor, and must also be representative of the upstairs population. The Membership Committee is comprised of approximately nine members. Under current Rule 11(c), one member must be chosen from both the Equity and Options Governors, of whom there are only two and three members, respectively. Because the Equity and Options Governors are involved in other committees and activities of the PSE, the Exchange believes that it has proven difficult to comply with the requirements of current section 11(c). The PSE considers that this compliance problem is not a temporary problem, but one that could recur in the future. According to the PSE, the proposed rule change would give the Exchange additional flexibility, while maintaining Governor participation on the Membership Committee.

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it will protect investors and the public interest by continuing to guarantee that at least one of the two Governors on the Membership Committee will be a floor Governor. In addition, the proposed rule change is consistent with section 6(b)(3) of the Act in that it assures a fair representation of PSE members in the administration of the affairs of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-90-23 and should be submitted by July 2, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-13412 Filed 6-8-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28087; File No. SR-NSCC-90-05]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the National Securities Clearing Corporation, Relating to a Modification to Its Dividend Settlement Service

June 1, 1990.

On March 8, 1990, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-NSCC-90-05) under section 19(b)(1) of the Securities Exchange Act of 1934, as amended ("Act").[1] The proposal was originally filed for immediate effectiveness pursuant to section 19(b)(3)(A) of the Act.[2] On April 12, 1990, NSCC amended the proposed rule change, staying its effectiveness and requesting accelerated consideration and approval of the proposal pursuant to the procedure established by section 19(b)(2) of the Act.[3] On April 26, 1990, the Commission published notice of the proposal in the **Federal Register**.[4] The Commission did not receive any letters of comments. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposal amends Rule 43 of NSCC's Rules, in order to allow NSCC to expand its Dividend Settlement Service ("DSS") to include the processing of claims for dividends and/or interest payments for such financial instruments as determined by NSCC. Currently, NSCC processes and settles claims for dividends and registered bond interest payments submitted by members.[5] Other claims, however, are submitted and processed if both parties consent.

The proposal would make DSS extensive to dividends and/or interest claims for items such as Government

[1] 15 U.S.C. 78s(b)(1) (1989).

[2] 15 U.S.C. 78s(b)(3)(A).

[3] 15 U.S.C. 78s(b)(2). Letter from Alison N. Hoffman, Associate Counsel, NSCC, to Ester Saverson, Branch Chief, Division of Market Regulation, Commission (April 9, 1990).

[4] Securities Exchange Act Release No. 27926 (April 20, 1990), 55 FR 17692 (April 26, 1990).

[5] DSS allows participants to submit claims against other participants for dividends or interest payments owed to the claiming participant. NSCC receives the claim and transmits it to the member against whom the claim is made without verifying the amounts or values of the claim. Pursuant to the DSS' procedure, NSCC will credit the claiming member's account with the money value stated on the claim and debit the other member's account with the same amount. Settlement of money payments are made pursuant to NSCC's regular settlement procedures.

and Agency Bonds, Unit Investment Trusts and Master Limited Partnerships. On an ongoing basis, however, NSCC would publish a list of instruments which may be included within the service.[6]

II. NSCC's Rationale

According to NSCC, the proposed rule change is consistent with the requirements of the Act because it promotes the prompt and accurate clearance and settlement of securities transaction. According to NSCC, the rule change will accommodate the diversity of instruments which may be subject to dividend and/or interest claims.

III. Discussion

The Commission believes that NSCC's proposed rule filing is consistent with section 17A(b)(3)(F) of the Act [7] because it promotes the prompt and accurate clearance and settlement of securities transactions involving the payment of dividends and/or interests. Currently, the DSS rules specifically provide only for the processing of claims for dividends and registered bond interests, although, if both parties consent, claims related to other instruments are submitted.

The proposed rule change will officially open the DSS system to other securities that, absent specific agreement between the parties, would occur outside the clearing environment. As such, the Commission believes that, by promoting the settlement of dividend and/or interest claims for these securities within NSCC, the proposal will reduce the costs associated with such collection of dividends and/or interest payments. Likewise, the proposal will provide participants the efficiencies associated with NSCC's netting system because the settlement of money payments resulting from the implementation of the proposed rule change, will occur pursuant to NSCC's settlement rules. At the same time, moreover, the financial risk to either NSCC or its participants will be minimal because NSCC will not guarantee DSS settlements.[8]

IV. Conclusion

The Commission finds that the proposal is consistent with section 17A of the Act and will improve the processing of securities transactions involving interest or dividend claims that, otherwise, would have to be settled outside a clearing environment.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change, SR–NSCC–90–05, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–13413 Filed 6–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28090; File No. SR–PSE–90–16]

Self-Regulatory Organizations; Filing of Proposed Rule Change by Pacific Stock Exchange, Inc. Relating to Amendment to Rule II, Section 3(h)—Cancellations Prior to Opening

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 14, 1990, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend Rule II, section 3(h) as follows: [Additions italicized; deletions bracketed]

Rule II

Cancellations Prior to Opening

Sec. 3(h). Specialists may decline to accept cancellations of orders during the [10] *3* minute period prior to the opening.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

According to the Exchange, PSE Rule II, section 3(h) was designed to provide a specialist with a sufficient amount of time to insure the effectiveness of an order cancellation received prior to the opening. Currently, the cancellation of an order must be received at least ten minutes before the opening to insure its effectiveness. The PSE proposes to reduce the ten minute time period to three minutes.

In considering this proposed rule change, the PSE Board has decided that the current ten minute period was necessary when trading systems primarily were manually based and more time was needed to insure that a cancellation could be effected. The Exchange believes, however, that the current trading environment, which includes various electronic mechanisms, can be effectively served by the shorter time period of three minutes.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in general, and section 6(b)(5) in particular, in that it will act to facilitate transactions in securities and will help to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants and Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii)

---

[6] NSCC will file with the Commission three copies of the list of instruments which interest and/or dividend claims may be processed through DSS within ten days after issuing or making it available to participants. 17 CFR 240.17a–22 (1989).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] NSCC will not stand behind any charges appearing on a credit list attached to envelopes delivered through DSS. NSCC, Rules and Procedures, Addendum D (October 1, 1978, revised March 14, 1990). In the event of a member default, NSCC will reverse all DSS debits and credits of the defaulting member due for settlement on the day of default. In addition, credits to a participant's account, pursuant to DSS, are subject to reclamation procedures in cases of irregularity or error in a charge for dividends or interest. *Id.* at R. 43(j).

[9] 15 U.S.C. 78s(b)(2).

as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-90-16 and should be submitted by July 2, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-13414 Filed 6-8-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28078; File No. SR-PTC-90-01]

Self-Regulatory Organizations; Participants Trust Company; Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Limited Purpose Participants

June 1, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 16, 1990, Participants Trust Company ("PTC") filed with the Securities Exchange Commission ("Commission") the proposed rule change as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change revises the provisions of article IV, rule 1, section 2. That section currently limits entities that are eligible to become Limited Purpose Participants ("LLPs") to issuers, warehouse lenders, and special clearing participants. The proposed rule change would expand the scope of limited purpose participation (i) to allow any full purpose Participant to have a Limited Purpose Account and (ii) to permit any entity which would qualify as a full Participant or a qualifying trust company to be an LPP even though it does not become a Participant. The proposed rule change will make certain changes and additions to definitions in article I in order to conform to the expanded scope of the definition of Limited Purpose Accounts and of LPPs. The proposed rule change also will conform the representation made in article II, rule 1, section 4(b) to the expanded class of LPPs. In addition, the proposed rule change will conform article II, rule 12, section 1, to the expanded scope of the definition of Limited Purpose Accounts and of LPPs.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PTC proposes to expand its definition of a Limited Purpose Account so that Participants may maintain such an account and, concurrently, to expand the definition of an LPP so that it is not limited to issuers, warehouse lenders and special clearing participants but also includes institutions which are eligible to be Participants but which prefer to use PTC for only limited purposes. The purpose of the proposed rule change is to provide PTC with the ability to accommodate the development of new products and transactions involving PTC-eligible securities, particularly, and most immediately, Collateralized Mortgage Obligations ("CMOs"). For this purpose it is essential to have an account which (i) can receive a direct deposit or delivery of securities free of payment, and (ii) which is not subject to the lien of PTC. The Limited Purpose Account has these characteristics.

As a result of the proposed rule change, PTC will be able (i) to prevent the withdrawal of securities from the depository to support collateralized obligations, and (ii) to encourage the deposit of securities which might otherwise remain outside the depository, thereby promoting the immobilization of securities.

2. Basis

The proposed rule change is designed to promote the objective of section 17A(b)(3)(F) of the Act, as amended, to provide "the prompt and accurate clearance and settlement of securities transactions." The proposed rule change will promote the immobilization of securities in PTC. The rule change, in broadening the definitions of Limited Purpose Account and LPP, will accommodate the growth and development of PTC including, in the case of collateralized obligations, a use that was always contemplated by PTC but which does not fit the current narrow definitions. These objectives of the proposed rule change support the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

PTC has not solicited, and does not intend to solicit, comments on this proposed rule change. PTC has not received an unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)

of the Act because the proposal effects a change in an existing service of PTC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of PTC or for which it is responsible, and (ii) does not affect the respective rights or obligations of PTC or the persons using the services. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to file number SR–PTC–90–01 and should be submitted by July 2, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–13415 Filed 6–8–90; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before July 11, 1990. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653–8538

OMB Reviewer: Gary Waxman, Officer of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395–7340

Title: Study of How Fexible Manufacturing Systems Affect Small Tooling and Machining Enterprises.

Form Nos.: SBA Forms 1715.

Frequency: One time study.

Description of respondents: Small Business Tooling and Machining Firms.

Annual Responses: 320.

Annual Burden Hours: 140.

Title: Governor's Request for Disaster Declaration.

Form Nos.: N/A.

Frequency: On occasion.

Description of Respondents: States Requesting a Presidential Disaster Declaration.

Annual Responses: 37.

Annual Burden Hours: 740.

William Cline,

Chief, Administrative, Information Branch.

[FR Doc. 90–13425 Filed 6–8–90; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Honolulu, will hold a meeting at 9:30 a.m. on Wednesday, July 18, 1990 at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii in Conference Room 4113A, to discuss such matters as may be presented by members and the staff of the U.S. Small Business Administration, or others present.

For further information, write or call Charles T.C. Lum, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, room 2213, Honolulu, Hawaii 96850, telephone (808) 541–2990.

Dated: June 4, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90–13421 Filed 6–8–90; 8:45 am]

BILLING CODE 8025–01–M

Region II Advisory Council Meeting

The U.S. Small Business Administration Region II Advisory Council, located in the geographical area of New York, will hold a public meeting at 9:30 a.m. on Thursday, June 28, 1990, at the Jacob K. Javits Federal Building, room 3100 (31st floor), 26 Federal Plaza, New York, NY, to discuss such matters as may be presented by members, staff of the Small Business Administration, or other present.

For futher information, write or call Mr. Bert X. Haggerty, District Director, U.S. Small Business Administration, 26 Federal Plaza, New York, NY 10278, telephone (212) 264–1318.

Dated: June 4, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90–13422 Filed 6–8–90; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council Meeting

The U.S. Small Business Administration Region II Advisory Council, located in the geographical area of Charlotte, will hold a District Meeting at 10 a.m. on Thursday, June 7, 1990 at the Ben Craig Center, 5736 North Tryon Street, Charlotte, North Carolina, to discuss such matters as may be presented by members and the staff of the U.S. Small Business Administration, or others present.

For further information, write or call Gary A. Keel, District Director, U.S. Small Business Administration, 222 South Church Street, suite 300, Charlotte, North Carolina 28202, telephone (704) 371–6561.

Dated: June 4, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90–13423 Filed 6–8–90; 8:45 am]

BILLING CODE 8025–01–M

Region V Advisory Council Meeting

The U.S. Small Business Administration Region V Advisory Council, located in the geographical area of Cleveland, will hold a public meeting at 1:30 p.m. on Thursday, June 28, 1990,

at the Crew's Nest, Bayview Avenue, Put-In-Bay, Ohio, to discuss such matters as may be presented by members, staff of the Small Business Administration or others present.

For further information, write or call Elmar Koeberer, Acting District Director, U.S. Small Business Administration, 1240 East Ninth Street, room 317, Cleveland, Ohio 44199–2095, telephone (216) 522–4180.

Dated: June 5, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90–13424 Filed 6–8–90; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Bureau of Intelligence and Research

[Public Notice 1218]

Discretionary Grant Programs; Application Notice Establishing Closing Date for Transmittal of Certain Fiscal Year 1991 Applications

AGENCY: The Department of State invites applications from national organizations with interest and expertise in conducting research and training concerning the U.S.S.R. and Eastern Europe to serve as intermediaries administering national competitive programs under the Soviet-Eastern European Research and Training Act. All grants will be annual and based on an open, national competition among applying organizations.

Authority for this program is contained in the Soviet-Eastern European Research and Training Act of 1983.

SUMMARY: The purpose of this application notice is to inform potential applicant organizations of fiscal and programmatic information and closing dates for transmittal of applications for awards in fiscal year 1991 under a program administered by the Department of State.

ORGANIZATION OF NOTICE: This notice contains three parts. Part I lists the closing date covered by this notice. Part II consists of a statement of purpose and priorities of the program. Part III provides the fiscal data for the program.

Part I

Closing Date for Transmittal of Applications

An application for an award must be mailed or hand-delivered by September 28, 1990.

Applications Delivered by Mail

An application sent by mail must be addressed to Kenneth E. Roberts, Executive Director, Soviet-Eastern European Studies Advisory Committee, suite 233, 1730 K Street NW., Washington, DC 20006.

An applicant must show proof of mailing consisting of *one* of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial center.

(4) Any other proof of mailing acceptable to the Department of State.

If an application is sent through the U.S. Postal Service, the Department of State does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail. Late applications will not be considered and will be returned to the applicant.

Applications Delivered by Hand

An application that is hand-delivered must be taken to Kenneth E. Roberts, Executive Director, Soviet-Eastern European Studies Advisory Committee, suite 233, 1730 K Street NW., Washington, DC.

The Soviet-Eastern European Studies Advisory Committee will accept hand-delivered applications between 9 a.m. and 4 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4 p.m. on the closing date.

Part II

Program Information

In the Soviet-Eastern European Research and Training Act of 1983 the Congress declared that independently verified factual knowledge about the counties of that area is "of utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs." Congress also declared that the development and maintenance of such knowledge and expertise "depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government." The Act authorizes the Secretary of State to provide financial support for advanced research, training and other related functions.

The full purpose of the Act and the eligibility requirements are set forth in Pub. L. 98–164, title VIII, 97 Stat. 1047–50. Under title VIII, the countries include Albania, Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, U.S.S.R., and Yugoslavia.

The Act establishes an Advisory Committee to recommend grant policies and recipients. The Secretary of State, after consultation with the Advisory Committee, approves policies and makes final determination on awards.

Applications for funding under the Act are invited from organizations prepared to conduct competitive programs in the fields of Soviet and Eastern European and related studies. Applying organizations or institutions should have the capability to conduct *competitive award programs that are national in scope.* Programs of this nature are those that make awards which are based upon an open, nationwide competition, incorporating peer group review mechanisms. Applications sought are those that would contribute to the development of a stable, long-term, national program of unclassified, advanced research and training on the Soviet Union and countries of Eastern Europe by proposing:

(1) *National programs* which award contracts or grants to American institutions of higher education or not-for-profit corporations in support of postdoctoral or equivalent level research projects, such contracts or grants to contain shared-cost provisions;

(2) *National programs* which offer graduate, postdoctoral and teaching fellowships for advanced training in Soviet and Eastern European and related studies, including training in the languages of the Soviet Union and Eastern Europe, such training to be conducted, on a shared-cost basis, at American institutions of higher education;

(3) *National programs* which provide fellowships and other support for American specialists enabling them to conduct advanced research in the field of Soviet, Eastern European and related studies; and those which facilitate research collaboration between Government and private specialists in these fields;

(4) *National programs* which provide advanced training and research on a reciprocal basis in the Soviet Union and in the countries of Eastern Europe by facilitiating access for American specialists to research facilities and resources in those countries;

(5) *National programs* which facilitate public dissemination of research methods, data and findings; and those which propose to strengthen the national capability for advanced research or training on the Soviet Union and Eastern Europe in ways not specified above.

NOTE: The Advisory Committee will not consider applications from individuals to further their own training or research, or from institutions or organizations whose proposals are not for competitive award programs that are national in scope as defined above. Moreover, support for publications, library activities, and conferences, will be constrained by the following policies:

—*Publications.* Title VIII funds should not be used ot subsidize journals, newsletters and other periodical publications except in unique of special circumstances, in which cases the funds should be supplied by peer-review organizations with national competitive programs.

—*Library Activities.* Title VIII funds should not be used for library preservation, cataloging or modernization. However, a national peer-review organization with Title VIII funds offer modest support to efforts directed toward developing an effective, long-term and well-coordinated strategy to address the serious library needs of the Sovet and East European fields.

—*Conferences.* Proposals for conferences, like those for research projects and training programs, should be assessed according to their relative contribution to the advancement of knowledge and to the professional development of cadres in the fields. Therefore, Title VIII grants generally should not be made solely to support a particular conference or series of conferences. Rather conference funding should come from one or more of the national peer-review organizations receiving Title VIII funds, with proposed conferences being evaluated competitively against research, fellowship or other proposals for achieving the purposes of the grant.

In making its recommendations, the Committee will seek to encourage a coherent, long-term, and stable effort directed toward developing and maintaining a national capability in Soviet and Eastern European studies. Program proposals can be for the conduct of any of the functions enumerated, but in making its recommendations, the Committee will be concerned to develop a balanced national effort which, over the life of the Act, will ensure attention to all the countries of the area. While Title VIII legislation requires that in certain cases grantee organizations include shared-cost provisions in their arrangements with end-users, cost-sharing in all forms is encouraged whenever feasible in all programs.

Part III

Available Funds

The President has requested for Fiscal Year 1991 $4.6 million for the Title VIII program. However, the amount available for awards (if any) will not be known until legislative action is complete on the Department of State Appropriations Bill.

The Department legally cannot commit funds that may be appropriated in subsequent fiscal years. Thus multi-year projects cannot receive assured funding unless such funding is supplied out of a single year's appropriation. Generally, grant agreements will permit the expenditure from a particular year's grant to be made up to three years from the grant's effective date.

Applications

Applications must be prepared and submitted in 20 copies in the form of a statement, the narrative part of which should not exceed 20 double-spaced pages. This must be accompanied by a one page executive summary, a budget, and vitae of professional staff. Proposers may append other information they consider essential, though bulky submissions are discouraged.

Applicants who received a TitleVIII grant in the previous fiscal year competition should provide detailed information on the peer evaluation and review procedures followed, and awards made, including, where applicable, names/affiliations of recipients, and amounts and types of awards. If an applicant also received Title VIII support prior to last year, a summary of those awards would be helpful.

Descriptions of competitive fellowships and other award programs should specify the applicant-to-award ratios.

Procedures for evaluating and selecting applicants to receive awards should be described in detail. For proposals including language instruction programs, criteria for evaluation should address levels of instruction, degrees of intensiveness, facilities, methods for measuring language proficiency (including pre- and post-testing), instructors' qualifications, and budget information showing estimated costs per student.

A description of affirmative action policies and practices should be included in the application.

Applicants should include certification of compliance with the provisions of the Drug-Free Workplace Act (Pub. L. 100–690), in accordance with Appendix C of 22 CFR part 137, subpart F.

Budget

Applicants should familiarize themselves with OMB Circular A–110, "Grants and Agreements with Institutions of Higher Education * * * Uniform Administrative Requirements," and OMB Circular A–133, "Audits of Institutions of Higher Learning and Other Non-Profit Institutions" and indicate or provide the following information:

(1) Whether the organization falls under OMB Circular No. A–21, "Cost Principles for Educational Institutions," or OMB Circular No. A–122, "Cost Principles for Nonprofit Organizations;"

(2) A budget request containing total amount, a detailed program budget indicating direct expenses by program element, and indirect costs. NB: Indirect costs are limited to 10 percent of total direct program costs. Applicants who are requesting Title VIII funds to supplement a program having other sources of support should submit a current budget for the total program and an estimated future budget for it showing how specific lines in the budget would be affected by the allocation of requested Title VIII grant funds. Other funding sources, when known, should be identified;

(3) The applicant's cost-sharing proposal, if applicable, containing appropriate details and cross references to the requested budget;

(4) Whether payment is requested on a reimbursable basis or by advance methods; re the latter for grants above $120,000, advance funds will be made through a letter of credit, but if less than $120,000 advance of funds will be made by Treasury checks through wire transfers;

(5) The organization's most recent audit report (the most recent U.S. Government audit report is available) and the name, address and point of contact of the audit agency.

Technical Review

The Soviet-Eastern European Studies Advisory Committee will evaluate applications on the basis of the following criteria:

(1) Responsiveness to the substantive provisions set forth above in *Part II, Program Information* (40 points);

(2) The professional qualifications of the applicant's key personnel and their experience conducting national competitive award programs of the type the applicant proposes in Soviet and East European fields (40 points); and

(3) Budget and cost effectiveness (20 points).

Further Information

For further information, contact Kenneth E. Roberts, Executive Director, Soviet-Eastern European Studies Advisory Committee, INR/RES, Department of State, Suite 233, 1730 K Street NW., Washington, DC 20006. Telephone: (202) 632–2025 or 632–6080.

Dated: June 1, 1990.

Kenneth E. Roberts,

Executive Director, Soviet-Eastern European Studies Advisory Committee.

[FR Doc. 90–13416 Filed 6–8–90; 8:45 am]

BILLING CODE 4710–32–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S–864 Amended]

Chestnut Shipping Co., Margate Shipping Co., Keystone Shipping Co., Application for Amendment of Previous Application for Waiver To Operate Nine Foreign-Flag Vessels

Chestnut Shipping Company and Margate Shipping Company (Applicants), in Docket S–864 requested an amendment of the section 804 waiver granted in Docket S–841, which permitted their affiliate Keystone Shipping Company (Keystone) to acquire an interest in or charter nine foreign-flag liquid bulk vessels of approximately 40,000 to 130,000 deadweight ton (DWT) capacity. The requested amendment in Docket S–864 would alter the tonnage range from 40,000 to 130,000 DWT capacity, to 30,000 to 160,000 DWT capacity. Notice of application was published in the **Federal Register** on March 21, 1990 (55 FR 10569). The Applicants by letter dated May 24, 1990, wish to further amend their application by requesting section 804(b) waivers of the Merchant Marine Act, 1936, as amended (Act), be granted to permit their affiliate Keystone to acquire an interest in or charter up to nine foreign-flag liquid bulk vessels, without limitation as to their deadweight capacity.

The Applicants believe that the good cause found to support the grant of section 804 waivers in respect to the Applicant's original request for such waivers in Docket S–841 and the additional facts, legal arguments and policy considerations advanced by Applicants in respect to their amendment in Docket S–864 provide ample support for waiver of the provision of section 804(a) of the Act under special circumstances and for good cause shown pursuant to section 804(b) of the Act.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such application within the meaning of section 804 of the Act and desiring to submit comments concerning the application, must file written comments in triplicate with the Secretary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on June 22, 1990.

This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administration will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies))

Dated: June 5, 1990.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 90–13353 Filed 6–8–90; 8:45 am]

BILLING CODE 4910–01–M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1989—Rev., Supp. No. 29]

Surety Companies Acceptable on Federal Bonds Termination of Authority: American General Fire and Casualty

Notice is hereby given that the Certificate of Authority issued by the Treasury to American General Fire and Casualty Company under the United States Code, title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is hereby terminated effective June 30, 1990.

The Company was last listed as an acceptable surety on Federal bonds at 54 FR 27802, June 30, 1989.

With respect to any bonds currently in force with American General Fire and Casualty Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287–3920.

Dated: June 1, 1990.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 90–13391 Filed 6–8–90; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1989—Rev., Supp. No. 30]

Surety Companies Acceptable on Federal Bonds Termination of Authority: Maine Bonding and Casualty Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Maine Bonding and Casualty Company under the United States Code, title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is hereby terminated effective June 30, 1990.

The Company was last listed as an acceptable surety on Federal bonds at 54 FR 27815, June 30, 1989.

With respect to any bonds currently in force with Maine Bonding and Casualty Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287–3920.

Dated: June 1, 1990.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 90–13392 Filed 6–8–90; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

[Dept. Circ. 570, 1989—Rev., Supp. No. 28]

Surety Companies Acceptable on Federal Bonds Termination of Authority: Maryland Casualty Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Maryland Casualty Company under the United States Code, title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is hereby terminated effective June 30, 1990.

The Company was last listed as an acceptable surety on Federal bonds at 54 FR 27815, June 30, 1989.

With respect to any bonds currently in force with Maryland Casualty Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287–3920.

Dated: June 1, 1990.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 90–13393 Filed 6–8–90; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by July 11, 1990.

Dated: June 5, 1990.

By direction of the Secretary

Frank E. Lalley,

Director, Office of Information Resources Policies.

1. Veterans Benefits Administration.
2. Application for Reimbursement of Headstone or Marker Expenses.
3. VA Form 21–8834.
4. The form is used by the person who paid for a deceased veteran's or service person's headstone, marker or additional engraving, to claim reimbursement in lieu of a Government furnished headstone.
5. On occasion.
6. Individuals or households.
7. 40,000 responses.
8. 1/6 hour.
9. Not applicable.

[FR Doc. 90–13444 Filed 6–8–90; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by July 11, 1990.

Dated: June 5, 1990.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Resources Policies.

Extension

1. Veterans Benefits Administration.
2. Notice—Payment Not Applied.
3. VA Form 29—4499a.
4. The form is used by policyholders to reinstate their Government Life Insurance. The information collected is used by VA to determine the insured's eligibility for reinstatement.
5. On occasion.
6. Individuals and households.
7. 1,200 responses.
8. ¼ hour.
9. Not applicable.

[FR Doc. 90–13445 Filed 6–8–90; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 112
Monday, June 11, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, June 13, 1990, 10:00 a.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Operating Plan for FY 90

The Commission will consider issues related to the Operating Plan for fiscal year 1990.

2. Crib Toy Petition, HP 89-1

The staff will brief the Commission on petition HP 89-1 from the Consumer Federation of America and the Attorney General of New York which requests the Commission to issue a rule banning certain crib gyms, crib mobiles, and crib toys.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Dated: June 7, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90-13574 Filed 6-7-90; 1:54 pm]

BILLING CODE 6355-01-M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, June 14, 1990, 10:00 a.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Sauna Petition, CP 89-1

The staff will brief the Commission on petition CP 89-1 from Dr. Edward Press which requests the Commission to develop a safety standard for saunas.

2. ANPR on Mortar Shell Fireworks

The staff will brief the Commission on an Advance Notice of Proposed Rulemaking concerning mortar shell fireworks.

For a recorded message containing the latest agenda information, call: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Maryland 20207 301-492-6800.

Dated: June 7, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90-13575 Filed 6-7-90; 1:54 pm]

BILLING CODE 6355-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:06 p.m. on Tuesday, June 5, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Recommendation concerning an administrative enforcement proceeding.

Matters relating to the probable failure of certain insured banks.

Recommendations concerning the Corporation's assistance agreements with certain insured banks.

Personnel matters.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC BUilding located at 550—17th Street, N.W., Washington, D.C.

Dated: June 6, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-13551 Filed 6-7-90; 12:03 pm]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

Notice

June 6, 1990.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-49), 5 U.S.C. 552B:

DATE AND TIME: June 13, 1990, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION CONTACT: Lois D. Cashell, Secretary, Telephone (202) 208-0400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 918th Meeting—June 13, 1990, Regular Meeting (10:00 a.m.)

CAH-1
Project No. 8093-013, Methuen Hydroelectric Company

CAH-2
Project No. 618-008, Alabama Power Company

CAH-3
Project No. 618-007, Alabama Power Company

CAH-4
Project Nos. 2716-018 and 019, Virginia Electric and Power Company

CAH-5
Project No. 190-001, Moon Lake Electric Association, Inc.

CAH-6
Project No. 6632-002, John N. Webster

CAH-7
Project No. 10468-001, Marsh Valley Hydro Electric Company

CAH-8
Project No. 8191-019, BMB Enterprises, Inc.

CAH-9
Project No. 6459-002, Southeastern Hydro-Power, Inc.

CAH-10

Project No. 2528-004, Central Maine Power Company

CAH-11
Project No. 10449-001, City of Gunnison, County of Arapahoe, and Town of Parker, Colorado

CAH-12
Project No. 9022-002, JDJ Energy Company

Consent Agenda—Electric

CAE-1
Docket Nos. ER90-339-000, ER89-66-000, ER89-125-000, ER89-228-000, ER89-663-000, ER90-297-000 and ER90-73-000, Canal Electric Company

CAE-2.
Docket No. ER90-342-000, ER90-63-000 and ER90-96-000, Southwestern Public Service Company
Docket Nos. EL89-50-000, Golden Spread Electric Cooperative, *et al.* v. Southwestern Public Service Company
Docket No. EL89-51-000, Lubbock Power & Light Company of the City of Lubbock, Texas, and the Cities of Brownsfield, Floydada, and Tulia, Texas V. Southwestern Public Service Company

CAE-3.
Docket No. ER90-223-000, Texas Utilities Electric Company

CAE-4.
Docket Nos. ER85-461-001, ER85-521-001, ER86-258-001, ER86-478-001, ER86-567-001, ER87-404-001 and ER88-120-000, Kansas Gas and Electric Company

CAE-5.
Omitted

CAE-6.
Docket No. ER90-65-001, Arkansas Power & Light Company

CAE-7.
Docket No. ER90-349-002, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

CAE-8.
Omitted

CAE-9.
Docket No. ER89-110-001, Duke Power Company

CAE-10.
Omitted

CAE-11.
Docket No. EL89-22-001, Wisconsin Public Service Corporation

CAE-12.
Docket No. ER84-560-027, Union Electric Company

CAE-13.
Docket No. QF88-72-004, Gulf Coast Engineering Management, Inc. and Boyce Machinery Corporation

CAE-14.
Docket No. QF87-531-002, Lyonsdale Energy Limited Partnership

CAE-15.
Docket No. QF87-531-003, Lyonsdale Energy Limited Partnership

Consent Agenda—Gas and Oil

CAG-1.
Docket No. RP90-117-000, Northern Border Pipeline Company

CAG-2.
Docket No. RP90-115-000, Arkla Energy Resources

CAG-3.
Docket No. TA90-1-20-000, Algonquin Gas Transmission Company

CAG-4.
Docket Nos. RP88-27-000, 002, 008, RP88-264-000, 002 and RP89-138-000, United Gas Pipe Line Company

CAG-5.
Docket No. RP90-95-000, Colorado Interstate Gas Company

CAG-6.
Docket No. RP90-46-000, ANR Pipeline Company

CAG-7.
Docket No. RP90-1-000, Nycotex Gas Transport

CAG-8.
Docket Nos. RP86-94-021, RP88-181-010, RP88-266-005, RP88-257-006 and CP90-494-001, Sea Robin Pipeline Company

CAG-9.
Docket No. RP89-161-016, ANR Pipeline Company

CAG-10.
Docket Nos. RP90-91-003, RP88-27-021, RP88-264-017 and RP89-138-007, United Gas Pipe Line Company

CAG-11.
Docket No. RP84-82-009, Tarpon Transmission Company

CAG-12.
Docket No. RP90-96-001, Texas Eastern Transmission Corporation

CAG-13.
Docket No. RP89-51-002, United Gas Pipe Line Company

CAG-14.
Omitted

CAG-15.
Docket Nos. RP89-254-001, RP89-48-005, RP89-222-003, Transwestern Pipeline Company

CAG-16.
Omitted

CAG-17.
Docket No. TA88-2-8-002, South Georgia Natural Gas Company

CAG-18.
Docket No. CP86-17-010, Colorado Interstate Gas Company

CAG-19.
Docket No. RP88-211-008, CNG Transmission Corporation

CAG-20.
Docket No. RP89-49-008, National Fuel Gas Supply Corporation

CAG-21.
Docket No. TA85-3-29-008, Transcontinental Gas Pipe Line Corporation

CAG-22
Docket Nos. RP87-7-012, RP88-68-000, 001, 009, RP89-122-000 and RP89-163-000, Transcontinental Gas Pipe Line Corporation

CAG-23
Docket No. RP89-152-000, Vesta Energy Company v. Williams Natural Gas Company

CAG-24
Docket Nos. RP87-33-002 and TA88-1-43-000, Williams Natural Gas Company

CAG-25
Omitted

CAG-26
Docket Nos. ST82-356-000, ST82-357-000, ST86-2692-000, ST86-2705-000, ST86-2698-000, ST86-2319-000, ST89-918-000 and ST86-2691-000, Delhi Gas Pipeline Corporation

CAG-27
Docket Nos. ST84-773-000, ST86-1603-000, ST86-1643-000, ST86-1933-000, ST86-1937-000, ST86-1965-000, ST86-2265-000, ST86-2317-000, ST86-2323-000, ST86-2687-000, ST86-2688-000, ST86-2690-000, ST86-2699-000, ST86-1518-000, ST87-3269-000, ST86-1599-000 and ST86-1601-000 and ST86-1601-000, Delhi Gas Pipeline Corporation

CAG-28
Docket Nos. ST84-803-000, ST86-2685-000, ST86-2320-000, ST87-844-000, ST87-3271-000, ST87-4110-000, ST89-1132-000, ST89-1501-000, Delhi Gas Pipeline Corporation

CAG-29
Docket No. ST90-567-000, Consumers Power Company

CAG-30
Docket No. RM89-16-001, Order Implementing the Natural Gas Wellhead Decontrol Act of 1989

CAG-31
Docket No. GP90-1-000, Illinois Department of Mines and Minerals

CAG-32
Docket No. CP86-492-005, Moraine Pipeline Company

CAG-33
Docket No. CP87-285-001, CNG Transmission Corporation

CAG-34
Omitted

CAG-35
Docket No. CP89-1338-000, Northern Natural Gas Company, Division of Enron Corporation

CAG-36
Docket No. CP88-615-000, Northwest Pipeline Corporation

CAG-37
Docket No. CP90-1154-001, CNG Transmission Corporation

CAG-38
Docket No. CP89-2056-000, Natural Gas Pipeline of America

CAG-39
Docket No. CP89-1851-001, Altamount Gas Transmission Company

Hydro Agenda

H-1
Rserved

Electric Agenda

E-1
Docket No. ER89-672-000, Public Service Company of Indiana. Opinion and order on rate filing.

E-2
Docket No. ER90-24-000, Commonwealth Atlantic Limited Partnership. Order on rate filing.

E-3
Docket No. ER90-290-000, Enron Power Enterprise Corporation. Order on rate filing.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR-1

Docket Nos. OR87-1-000, OR87-2-000, OR87-3-000, OR87-4-000, OR87-5-020 and OR87-8-020, Oxy Pipeline, Inc.
Docket No. OR87-6-000, Cxy Offshore Systems Inc.
Docket No. OR-85-2-000, Samedan Pipe Line Corporation. Order on jurisdiction under Interstate Commerce Act over oil pipelines on the outer Continental Shelf.

II. Producer Matters

PF-1
Docket No. CP73-184-006, Colorado Interstate Gas Company, Division of Colorado Interstate Gas Company
Docket No. CI73-485-005, CIG Exploration, Inc. Order on rehearing.

III. Pipeline Certificate Matters

PC-1
Docket No. CP89-692-001, Amerada Hess Corporation
Docket No. CP90-804-000, Alabama-Tennessee Natural Gas Company and Sun Operating Limited Partnership
Docket No. CP90-215-000, Amoco Production Company
Docket No. CP90-504-000, ARCO Oil and Gas Company, Inc.
Docket No. CP89-1753-000, Arkla Energy Resources
Docket No. CP88-202-001, Columbia Gas Transmission Company
Docket No. CP88-244-000, El Paso Natural Gas Company
Docket No. CI89-421-000, Enron Oil & Gas Company
Docket No. CP89-2158-000, Forest Oil Corporation
Docket Nos. CP90-1083-000 and CP90-1084-000, Leapartners, L. P. & El Paso Natural Gas Company
Docket No. CP90-1311-000, Marathon Oil Company
Docket No. CP89-2035-000, Meridian Oil Gathering, Inc.
Docket No. CP89-1514-000, Mitco Pipeline Company
Docket Nos. CP88-428-000 and 001, NRM Operating Company, L.P., *et al.*
Docket No. CP89-1001-000, Ringwood Gathering Company
Docket No. CI89-191-001, Shell Gas Pipeline Company
Docket Nos. CI89-420-000 and CP89-921-000, Shell Offshores, Inc. and Trunkline Gas Company
Docket Nos. CP89-468-000 and CP89-483-000, Shell Western E&P, Inc. and El Paso Natural Gas Company
Docket No. CP89-1883-000, Tennessee Gas Pipeline Company
Docket No. CP88-212-000, West Texas Gathering Company
Docket Nos. CP89-1718- and CP89-1722-000, Western Gas Processors and El Paso Natural Gas Company. Declaratory order concerning gathering, order on rehearing and order on abandonment.

PC-2
Docket No. CP89-637-000, ANR Pipeline Company
Docket Nos. CP89-635-000 and 001, Columbia Gas Transmission Corporation
Docket Nos. CP89-661-000 and 001, Algonquin Gas Transmission Company. Order on applications for certificates.

PC-3
Docket Nos. RP89-50-000, 002, 005, CP64-249-000, 001, CP65-284-000, 001, CP65-393-006, 007, CP68-179-006, 012, 013, 015, 017, CP74-192-009, 011, 012, 013, CP86-704-000, 001, 002, 003, 004, CP89-555-000, 003, CP89-556-000, 003, G-9262-004, 005, G-18615-000 and 001, Florida Gas Transmission Company. Order on settlements.

PC-4
Docket Nos. CP89-1841-000, CP89-1538-000, CP83-218-000, Northern Natural Gas Company, Division of Enron Corporation
Docket No. CP90-418-000, Natural Gas Pipeline
Docket No. CP83-183-000, ANR Pipeline Company of America. Order on applications for certificate.

Lois D. Cashell,

Secretary.

[FR Doc. 90-13581 Filed 6-7-90; 3:25 pm]

BILLING CODE 6717-01-M

COMMITEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 9:00 a.m., Friday, June 15, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed establishment of a third investment fund for the Thrift Plan for employees of the Federal Reserve System.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: June 7, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-13597 Filed 6-7-90; 3:47 pm]

BILLING CODE 6210-01-M

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 9:30 a.m., Friday, June 15, 1990, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to: (a) The general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal, actuarial, accounting, administrative, and other services as the Committee deems necessary to carry out the provisions of the Plans.

Specific items include: Office of Employee Benefits (A) operations review issues and (B) salary administration.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: June 7, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-13598 Filed 6-7-90; 3:47 pm]

BILLING CODE 6210-01-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:53 p.m. on Tuesday, June 5, 1990, the Board of Directors of the Resolution Trust Corporation met in closed session to consider (1) matters relating to the resolution of certain failed thrift institutions, and (2) recommendations regarding retention of thrift branches acquired by banks in emergency acquisitions.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: June 6, 1990.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 90-13559 Filed 6-7-90; 1:38 pm]

BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 55, No. 112
Monday, June 11, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3749-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

Correction

In rule document 90-6918 beginning on page 11188 in the issue of March 27, 1990, make the following corrections:

1. On page 11188, in the third column, under "**II. Disposition of Petition**", in the second complete paragraph, the second line should read "listed and listed constituents of concern are not".

2. On the same page, in the same paragraph, in the seventh line "analysis" should read "analyses".

3. On page 11190, in the third column, in the third complete paragraph, in the last line "today" should read "today's".

4. On page 11191, in the second column, in the first paragraph, the eighth line should read "method blanks. Because field and method blanks are, respectively, used to".

5. On page 11192, in the first column, under "**III. Limited Effect on Final Exclusion**", in the eleventh line "Since the petitioner's" should read "Since a petitioner's".

6. On the same page, in the same paragraph, in the penultimate line "waste" should read "wastes".

7. On the same page, in the second column, under "**V. Regulatory Impact**" in the seventh line "economic" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 452

[Docket No. 89N-0058]

Human and Veterinary Drugs; Editorial Amendments

Correction

In rule document 90-6284 beginning on page 11575, in the issue of Thursday, March 29, 1990, make the following correction:

§ 452.910 [Corrected]

On page 11584, in the third column, in amendatory instruction 164, in the third line, "(a)(3)(ii)" should read "(a)(4)(ii)".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 626, 636, 638, 675, 676, 677, 678, 679, 680, 684, 685, 688, and 689

RIN 1205-AA54

Redesignation and Revision of Regulations for Job Corps Program Under Title IV-B; and Removal of Comprehensive Employment and Training Act Regulations

Correction

In rule document 90-7737 beginning on page 12992 in the issue of Friday, April 6, 1990, make the following corrections:

1. On page 12992, in the second column, in the second full paragraph, in the 11th line "responsive" should read "responsible".

2. On page 12993, in the heading of paragraph "h", "Disadvantages" should read "Disadvantaged".

3. On page 12995, under "**Paperwork Reduction**", in the second paragraph, in the tenth line "Office of " should read "Officer for".

§ 626.3 and Part 638 [Corrected]

4. On page 12996, in § 626.3 and in the table of contents for Part 638, in the first and third columns § 638.403, respectively, "Selective service" should read "Selective Service".

§ 638.403 [Corrected]

5. On page 13001, in § 638.403, in the heading "Selective service" should read "Selective Service".

§ 638.538 [Corrected]

6. On page 13005, in the first column, "§ 636.538" should read "§ 638.538".

BILLING CODE 1505-01-D

SMALL BUSINESS ADMINISTRATION

Region II Advisory Council Meeting

Correction

In notice document 90-10853 appearing on page 19415 in the issue of Wednesday, May 9, 1990, in the first column, in the second line from the bottom of the page, "June 30, 1990" should read "June 20, 1990,".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19, 197, and 251

[T.D. ATF-297; Re: Notice No. 625]

RIN 1512-AA05

Tax Credit for Wine or Flavor Content of Distilled Spirits Products

Correction

In rule document 90-9804 beginning on page 18058 in the issue of Monday, April 30, 1990, make the following corrections:

§ 19.26 [Corrected]

1. On page 18062, in the first column, in § 19.26(a), in the second line, "of" should read "or".

2. On the same page, in the same column, in § 19.26(b), in the next to last line, "wines" should read "wine".

§ 19.770 [Corrected]

3. On page 18065, in the first column, in § 19.770(a)(6)(iv), in the second line, "of" should read "or".

§ 197.5 [Corrected]

4. On the same page, in the third column, in § 197.5, in the first line, "next" should read "net".

§ 251.77 [Corrected]

5. On page 18071, in the second column, in § 251.77(d), in the last line, "to" should read "not".

BILLING CODE 1505-01-D

federal register

Monday
June 11, 1990

Part II

International Development Cooperation Agency

Agency for International Development

22 CFR Part 211

Transfer of Food Commodities for Use in Disaster Relief, Economic Development and Other Assistance; Final Rule

INTERNATIONAL DEVELOPMENT CORPORATION AGENCY

Agency for International Development

22 CFR Part 211

[A.I.D. Reg. 11]

Transfer of Food Commodities for Use in Disaster Relief, Economic Development and Other Assistance

AGENCY: Agency for International Development (A.I.D.), IDCA.

ACTION: Final rule.

SUMMARY: This final rule amends A.I.D. Regulation 11 at 22 CFR part 211, Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance to conform the Regulation to changes made in applicable legislation (See Appendix I for relevant provisions of title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480), by Public Law 96–53, August 14, 1979; the Food Security Act of 1985, Public Law 99–196, dated December 23, 1985; Public Law 100–202 (Continuing Appropriations), December 22, 1987) and to make other necessary modifications set forth below.

The following are some of the more significant changes: (1) Cooperatives may be cooperating sponsors; (2) a program operational plan, the elements of which are described in Appendix II, must be furnished and implemented; (3) although each cooperating sponsor shall be represented by a person resident in the country of distribution or other nearby country approved by A.I.D./W, it is not necessary that this person be a U.S. citizen; (4) cooperating sponsors may sell or "monetize" commodities and use currencies generated from any partial or full sale or barter of commodities to transport, store, distribute or otherwise enhance the effectiveness of the use of the commodities or implement certain kinds of approved development activities; (5) reports must be provided regarding the receipt and disbursement of funds from sale of commodities or food containers, recipient contributions and other program income for authorized purposes; (6) with A.I.D. approval monetized proceeds may be used to finance repair or rehabilitation of an existing structure owned or managed by a church or organization engaged in religious activity to the extent necessary to avoid spoilage or loss of donated commodities provided the structure is not used in whole or in part for any sectarian purpose while commodities are stored in it; (7) A.I.D., rather than USDA, now is responsible for booking Public Law 480, Title II government-to-government cargo; (8) the responsibilities of cooperating sponsors are clarified with respect to monetization and trilateral exchange programs and the proper use of monetization proceeds and program income; (9) cooperating sponsors may elect not to file a claim if the loss is less than $500 and such action is not detrimental to the program, and cooperating sponsors may retain $150 of any amount collected on an individual claim; (10) reasonable efforts to pursue a claim against responsible third parties are defined; and (11) U.S. Government cost principles under OMB Circular A–122 as amended are applied to the use of monetized proceeds and program income except that a recipient agency may use not to exceed $500 per year of voluntary contributions for institutional, community, social or other humanitarian programs.

EFFECTIVE DATE: June 11, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Jessie C. Vogler, Office of Food for Peace, Bureau of Food for Peace and Voluntary Assistance, Agency for International Development, Washington, DC 20523. Telephone: (703) 875–4706.

FOR ADDITIONAL INFORMATION CONTACT: Ms. Donna Rosa, Chief, Project Coordination Division, Office of Food for Peace, Bureau of Food for Peace and Voluntary Assistance, Agency for International Development, Washington, DC 20523. Telephone: (703) 875–4706.

SUPPLEMENTARY INFORMATION: Under provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480), A.I.D. is authorized to provide agricultural commodities to foreign governments, U.S. and foreign voluntary agencies, cooperatives or intergovernmental organizations to meet famine or other urgent or extraordinary relief requirements, to combat malnutrition, and to promote economic and community development. A.I.D. Regulation 11, 22 CFR Part 211—Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance, contains the regulations prescribing the terms and conditions governing the transfer of U.S. agricultural commodities pursuant to Title II of Public Law 480.

The text of the proposed rules of A.I.D. Regulation 11 was published in the **Federal Register** on pages 51044 through 51060, December 19, 1988. The original 60-day commenting period ended February 17, 1989, but was extended in response to a request from cooperating sponsors to enable them to comment further on the proposed Regulation.

The text of this final Rule has been reviewed under A.I.D.'s required procedures. It has been determined that these program provisions will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since A.I.D. is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice. 5 U.S.C. 553 does not apply to this final rule since the subject matter of the rule involves foreign affairs functions of the United States and a matter relating to grants.

Specific Comments

Commentators considered the administrative requirements of the proposed rule to be unnecessarily restrictive and requiring additional clarification, particularly § 211.3, dealing with cooperating sponsor program agreements, § 211.5 concerning use of funds and program operational plans, and § 211.9 regarding inland claims. Some organizations elaborated on their concerns in meetings with Agency officials.

All comments received were carefully considered, and changes and clarifications were made where appropriate to address the concerns submitted.

It is very important, however, to implement effective standards and systems of accountability for United States resources in order to ensure that they are safeguarded and used for the purposes provided and to maintain public confidence in government assistance programs. In recent years, monetization has become increasingly significant, and it is necessary to make adjustments to accommodate the delivery of assistance by means of local currency as well as by food distribution. In general, the Regulation has been revised to improve understanding and mutual agreement about the responsibilities of the government, cooperating sponsors and other organizations participating in the Title II program. For these reasons, requirements have been clarified or added regarding approved operational plans, the authorized use of monetized proceeds and program income, utilizing the allowable cost principles of OMB

Circular A–122, and the responsibility to pursue claims for losses of food or local currency.

The principal changes in the Regulation are as follows:

1. The statutory excerpts in Appendix I have been revised to conform them to changes in Public Law 480.

2. Section 211.2—Definitions. This section has been revised for clarification and to include additional Title II programming terms.

3. Section 211.3(c) Recipient Agency Agreements, has been added to require the cooperating sponsor to execute this written agreement with recipient agencies prior to transfer of commodities, monetized proceeds, or program income. This written agreement must describe the purposes for which the commodities or funds may be used and the responsibilities of the recipient agency and the cooperating sponsor for distribution or implementation of the approved program. The recipient agency agreement shall incorporate by reference or otherwise terms and conditions set forth in this part (A.I.D. Regulation 11), and Section 211.3(d) has been added which outlines steps necessary to commence a program.

4. Section 211.4(d) has been revised to reflect the transfer from USDA to A.I.D. of the responsibility for booking Public Law 480, Title II government-to-government cargo.

5. Section 211.5(a) contains the requirement for an approved operational plan which will form the basis for program agreements, but the detailed description of the elements of the operational plan have been placed as Appendix II to this part (A.I.D. Regulation 11). Section 211.5(b) has been revised to allow cooperating sponsors to be represented by a person who is not a citizen of the United States in the country of distribution or other nearby country, approved by A.I.D./W, who is appointed by and responsible to the cooperating sponsor for distribution of commodities or use of monetized proceeds or program income in accordance with the provisions of this Regulation.

6. Section 211.5(c) "Internal Reviews" has been revised to clarify the cooperating sponsor's responsibility for conducting Internal Reviews and requires that a systematic method be used to assure timely resolutions of findings and recommendations.

7. Section 211.5(i) "Use of Funds" has been revised to require that monetized proceeds and program income be used in accordance with the cost principles of OMB Circular No. A–122, "Cost Principles for Nonprofit Organizations." Program income includes recipient contributions received by the cooperating sponsor or recipient agencies, funds raised by the sale of containers, and revenue from other program activity, except that a recipient agency may use not to exceed $500 per year of voluntary contributions for institutional, community or social development or other humanitarian purposes without regard to the operational plan or OMB Circular A–122. Funds may be used to repair church owned structures to avoid spoilage or loss of commodities (Section 211.5(i)(2).

8. Section 211.5(j) is a new item which requires an annual report on the generation and use of monetized proceeds and program income. Sections 211.5 (o) and (p) are new sections concerning monetization programs and trilateral exchange activities.

9. Section 211.7(b) has been revised to clarify the cooperating sponsor's responsibility with respect to duty, taxes and consular invoices.

10. Section 211.7(e) has been revised to clarify the limitations on reimbursement of repackaging costs.

11. Section 211.9(c)(l)(v) is a new subparagraph concerning contracting by CCC for the survey of cargo on shipments furnished under Transfer Authorizations. Section 211.9(c)(2), "Claims against Ocean Carriers," has been revised to reflect that the responsibility for booking all Public Law 480, Title II Government-to-Government cargoes has been transferred from USDA to A.I.D.; Section 211.9(e)(3) is revised to clarify that individual inland claims should not be artificially subdivided. Also, cooperating sponsors may elect not to file a claim if the loss is less than $500 and such action is not detrimental to the program; and cooperating sponsors may retain $150 of any amount collected on an individual claim. Section 211.9(e) (3) and (4) have been added to clarify cooperating sponsors' responsibilities concerning inland claims. In § 211.9(g) "Handling Claims Proceeds," the following has been added, "With respect to monetized proceeds and program income, amounts recovered shall be deposited into the special interest bearing account established for the monetized proceeds and may be used for purposes of the approved program."

12. Section 211.10(a) has been revised to add the following: The last two sentences to read, "Such records shall be retained for a period of three years from the close of the U.S. fiscal year to which they pertain or longer upon request by A.I.D. for cause such as in the case of litigation of a claim or audit concerning such periods. The cooperating sponsor shall transfer to A.I.D. any records, or copies thereof, requested by A.I.D."

13. Other grammatical or minor revisions have been made for clarification purposes.

Because of the substantial revisions, the final A.I.D. Regulation 11, as revised, is printed below in its entirety.

22 CFR part 211 is revised to read as follows:

PART 211—TRANSFER OF FOOD COMMODITIES FOR FOOD USE IN DISASTER RELIEF, ECONOMIC DEVELOPMENT, AND OTHER ASSISTANCE

Sec.

Authority: Secs. 105, 201, 202, 203, and 207, Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1705, 1721, 1722, 1723, and 1726a; 68 Stat. 454, as amended.

§ 211.1 General purpose and scope; legislation.

(a) (1) *Terms and conditions.* This part 211, also known as A.I.D. Regulation 11, prescribes the terms and conditions governing the transfer of agricultural commodities to foreign governments; to private or public agencies, including nonprofit voluntary agencies, cooperatives; and to intergovernmental organizations (except the World Food Program (WFP) and other Agencies of the United Nations) pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480, 83rd Congress, as amended. (For United Nations Agencies, and the World Food Program (WFP), see A.I.D. Handbook 9).

(2) *Organization.* This Regulation starts by defining terms used in this Regulation, and goes on to provide information on Title II programs, and the rules under which they are conducted.

(b) *Legislation.* See Appendix I to the Regulation. The legislation implemented by the Regulation in this Part (as of the date of issuance of this Part) includes Sections of the Agricultural Trade Development Assistance Act of 1954, as amended (Public Law 480) as follows: Sections 2(3), 201, 202, 203, 204, 206, 207, 208, 401, 402, and 404.

§ 211.2 Definitions.

(a) *A.I.D.* means the Agency for International Development or any successor agency, including, when applicable, each USAID. "USAID" means an office of A.I.D. located in a foreign country. "A.I.D./W" means the office of A.I.D. located in Washington, D.C.

(b) *Annual Estimate of Requirements (AER)* (Form A.I.D. 1550–3, Exhibit E, A.I.D. Handbook 9) is a statistical update of the Operational Plan which is signed by the cooperating sponsor requesting commodities under Title II estimating the quantities required.

(c) *CCC* means the Commodity Credit Corporation, a corporate agency and instrumentality of the United States within the U.S. Department of Agriculture.

(d) (1) Cooperating sponsor means an entity, within or without the United States, governmental or not, such as the foreign government, the American Red Cross, the intergovernmental organization, the U.S. nonprofit voluntary agency or the cooperative registered with and approved by A.I.D., which enters into an agreement with the U.S. Government for the use of agricultural commodities or funds (including local currencies), and which is directly responsible under the agreement for administration and implementation of the agreement, including reporting on programs involving the use of the commodities or funds made available to meet the requirements of eligible recipients. The term includes foreign nonprofit voluntary agencies registered with and approved by the A.I.D., which may be utilized to provide assistance following a determination of unavailability of a U.S. registered nonprofit voluntary agency to provide the assistance.

(2) *Governmental cooperating sponsor* means a cooperating sponsor which is a foreign government.

(3) *Nongovernmental cooperating sponsor* means a cooperating sponsor which is a nonprofit voluntary agency, a cooperative, the American Red Cross, or other private or public agency. An intergovernmental organization is also treated as a nongovernmental cooperating sponsor in this part (A.I.D. Regulation 11) unless the text or context indicates otherwise.

(4) Note: Governmental cooperating sponsors are treated here as a group separate from other cooperating sponsors since their circumstances are different in such matters as, e.g., rules governing shipping and in certain other aspects of agreements.

(e) *Diplomatic Posts* means the offices of the Department of State located in foreign countries, and may include Embassies, Legations, and Consular offices.

(f) *Disaster relief organizations* means organizations which are authorized by A.I.D./W, USAID, or by a Diplomatic Post to assist disaster victims.

(g) *Disaster victims* means persons who, because of flood, drought, fire, earthquake, other natural or man-made disasters, or extraordinary relief requirements, are in need of food, feed, or fiber assistance.

(h) *Duty free* means exempt from all customs duties, toll charges, taxes or governmental impositions levied on the act of importation.

(i) *Free alongside ship* (f.a.s.) includes all costs of transportation and delivery of the goods to the dock. "Free on board" (f.o.b.) includes costs for delivering the goods and loading them aboard the carrier at a specific location. Bulk shipments are normally loaded f.o.b.; all other shipments, f.a.s., and title there transferred.

(j) (1) *Food for Peace Program Agreement* constitutes the agreement between the cooperating sponsor(s) and the U.S. Government. The Food for Peace Program Agreement may be specific, listing the kinds and quantities of commodities to be supplied, program objectives, criteria for eligibility of recipients, plan for distribution of commodities, and other specific program provisions in addition to the provisions set forth in this Regulation; or it will state that the cooperating sponsor will comply with this part and such other terms and conditions as set forth in other A.I.D. programming documents.

(2) *Host Country Food for Peace Program Agreement* means an agreement between the cooperating sponsor and the foreign government of each cooperating country which incorporates by reference or otherwise the terms and conditions set forth within this Part (A.I.D. Regulation 11).

(3) *Recipient Agency Agreements* means a written agreement between the cooperating sponsor and the recipient agency prior to the transfer to a recipient agency of commodities, monetized proceeds, or other program income for distribution or implementation of an approved program.

(k) *General Average* means the proportional sharing of a loss or extraordinary expense incurred to protect the whole cargo.

(l) *Institutions* means nonpenal, public or nonprofit private establishments that operate for charitable or welfare purposes where needy persons reside and receive meals including, but not limited to, homes for the aged, mentally and physically handicapped, refugee camps, and leprosy asylums.

(m) *Intergovernmental organizations* means agencies sponsored and supported by the United Nations or by two or more nations, one of which is the United States of America.

(n) *Maternal-child feeding, primary school and other child feeding programs:*

(1) Maternal and preschool feeding programs means programs conducted for women of childbearing age, with emphasis on pregnant and lactating women; for mothers with preschool children; and for children below the usual enrollment age for the primary grade at public schools.

(2) School feeding programs means programs conducted for the benefit of children enrolled in primary schools.

(3) Other child feeding programs means programs designed to reach needy children of preschool or primary school age, in child care centers, orphanages, institutions, nurseries, kindergartens and similar activities.

(o) *Nonprofit* means that the residue of income over operating expenses accruing in any activity, project, or program is used solely for the operation of such activity, project, or program.

(p) *Operational Plan* is a plan submitted by the cooperating sponsor or potential cooperating sponsor describing the proposed use of commodity and/or monetized proceeds of sale thereof and/or program income.

(q) *Primary school* means a public or nonprofit facility, or an activity within such facility, which has as its primary purpose the education of children at education levels which are generally comparable to those of elementary schools in the United States.

(r) *Monetized* proceeds means funds generated from the sale of commodities donated by the U.S. in approved monetization programs. Monetized proceeds should be deposited in a special interest bearing account for control and monitoring.

(s) *Program income* means gross income earned by the cooperating sponsor or recipient agencies from activities supported under the approved program during the program period, including, but not limited to, interest

earned on deposits of monetized proceeds, revenue from income generating activities, funds accruing from the sale of containers and nominal voluntary contributions by recipients made on the basis of ability to pay. (With respect to nominal voluntary contributions, no one will be denied food because of inability to pay.)

(t) *Recipient agencies* means schools, institutions, welfare agencies, disaster relief organizations, and public or private agencies whose food distribution functions or project activities are sponsored-by the cooperating sponsor and which receive for distribution to eligible recipients commodities or monetized proceeds or program income for approved project activities. A cooperating sponsor may be a recipient agency.

(u) *Recipients* means persons who are in need of food assistance or the benefit of monetized proceeds or program income because of their economic or nutritional condition or who are otherwise eligible to receive commodities for their own use or other assistance in accordance with the terms and conditions of the Food for Peace Program Agreement.

(v) *Registered nonprofit voluntary agency* means a nonprofit voluntary agency or cooperative registered with, and approved by A.I.D. The term includes foreign as well as U.S. registered nonprofit voluntary agencies. Under Public Law 480, section 202(a), a foreign registered nonprofit voluntary agency may be utilized if no U.S. registered nonprofit voluntary agency is available. As to registration, See 22 CFR Part 203, A.I.D. Regulation 3, "Registration of Agencies for Voluntary Foreign Aid."

(w) *Refugees* means persons who fled or were forced to leave their country of nationality or residence and are living in a country other than that of which they hold or have held citizenship, or in a part of their country of nationality or residence other than that which they normally consider their residence, and become eligible recipients.

(x) *Transfer Authorization* or "TA" means the document signed by the cooperating sponsor and A.I.D. which describes commodities and the program in which they will be used. The TA incorporates A.I.D. Regulation 11, and authorizes CCC to ship the commodities.

(y) *USDA* means the U.S. Department of Agriculture.

(z) *Voluntary Agency* means the American Red Cross and any U.S. or foreign voluntary nonprofit agency or cooperative registered with, and approved by, A.I.D.

(aa) "Welfare agencies" means public or nonprofit private agencies that provide care, including food assistance, to needy persons who are not residents of institutions.

§ 211.3 Cooperating sponsor agreements.

(a) *Food for Peace Program Agreement.* The cooperating sponsor shall enter into a written agreement with A.I.D. by signing a Food for Peace Program Agreement which shall incorporate by reference or otherwise the terms and conditions set forth in this part (A.I.D. Regulation 11).

(b) Host country Food for Peace Program Agreement. Voluntary agencies, including cooperatives, or intergovernmental organizations shall, in addition to the Food for Peace Program Agreement, enter into a separate written Food for Peace Agreement with the foreign government of each cooperating country. This agreement shall incorporate by reference or otherwise the terms and conditions set forth in this part (A.I.D. Regulation 11). Provided, however, that where such written agreement is not appropriate or feasible, the USAID or Diplomatic Post shall assure A.I.D./W, in writing, that the program can be effectively implemented in compliance with this part without such an agreement.

(c) *Recipient Agency Agreements.* Prior to the transfer of commodities, monetized proceeds, or program income to a recipient agency for distribution or implementation of an approved program, the cooperating sponsor shall execute a written agreement with such agency which shall describe the approved uses of commodities, monetized proceeds and program income; provide that the recipient agency shall pay to the cooperating sponsor the value of any commodities, monetized proceeds or program income which are used for purposes not permitted under the Food for Peace Program Agreement, the approved operational plan or this Regulation or which are lost, damaged or misused as a result of the recipient agency's failure to exercise reasonable care with respect to such commodities, monetized proceeds or program income; and incorporate by reference or otherwise the terms and conditions set forth in this part (A.I.D. Regulation 11) including those relating to implementation of the approved operational plan, the use of funds, recordkeeping, reporting, inspection and audit. The operational plan may indicate, however, those transfers of commodities, monetized proceeds or program income as to which the cooperating sponsor and A.I.D. agree that a Recipient Agency Agreement would not be appropriate or feasible because of the nature of the recipient agency selected by the cooperating sponsor or the amount of commodities, monetized proceeds or program income that may be transferred to the recipient agency. In any case, the cooperating sponsor shall remain responsible for such commodities, monetized proceeds and program income in accordance with the terms of this part (A.I.D. Regulation 11) and the Food for Peace Program Agreement. The cooperating sponsor shall provide the USAID or Diplomatic Post a copy of each executed Recipient Agency Agreement.

(d) *Program procedure*—(1) *Requests for programs.* A program may be requested by any cooperating sponsor, including nonprofit voluntary agencies, cooperatives, foreign governments, and international organizations.

(2) *Format for approval of programs.* There are two basic patterns of decision typically employed in granting approval to a request for Title II assistance:

(i) *Format for approving regular programs.* The cooperating sponsor submits to A.I.D. an operational plan or multi-year operational plan (see Appendix II), describing the program proposed. The operational plan provides the basic information for preparation or amendment of a Food for Peace Program Agreement (see definition), between the cooperating sponsor and A.I.D. (these Agreements will include by reference this Regulation 11). Also, there will be submitted to A.I.D. an Annual Estimate of Requirements or A.E.R. along with the operational plan (see definition), estimating the quantities of commodities required for each program proposed. Upon approval by the Working Group of the Food Aid Subcommittee, A.I.D./W's signature on the A.E.R. completes this decision process.

(ii) Format for Approving Individual Programs. The other basic pattern of decision making on these programs results in a Transfer Authorization ("TA"; see definition). The TA is used for all government-to-government programs, and for nongovernmental cooperating sponsor programs which do not fit within the Program Agreement/AER framework. The TA will include by reference Regulation 11.

(iii) *Timing of decision.* Under Public Law 480, section 208(a), within 45 days of its submission to A.I.D./W, a decision must be made on a proposal submitted by a nonprofit voluntary agency or cooperative, concurred in by the appropriate U.S. Government field mission. The decision shall detail the reasons for approval or denial, and if

denied, conditions to be met for approval.

§ 211.4 Availability of commodities; shipment.

(a) Shipment, distribution and use of commodities. Commodities shall be available for shipment, distribution and use in accordance with the provisions of the Food for Peace Program Agreement or Transfer Authorization and this part.

(b) *Transfer of title and delivery.* (1) Unless the Food for Peace Program Agreement or Transfer Authorization provides otherwise, title to the commodity shall pass to the cooperating sponsor at the time and place designated by CCC. This will generally be either f.o.b. or f.a.s. vessel at the U.S. port or at another point in the U.S. at the time and place at which the ocean carrier takes possession of the cargo.

(2) Nongovernmental cooperating sponsors shall make the necessary arrangements to accept commodities at the points of delivery designated by CCC.

(c) *Processing, handling, transportation and other costs.* (1) The United States will pay processing, handling, transportation, and other incidental costs incurred in making commodities available to cooperating sponsors f.o.b. or f.a.s. vessel at U.S. ports, or free at inland destinations in the U.S., at the time and place at which the ocean carrier takes possession of the cargo, except as otherwise provided in this paragraph (c).

(2) Nongovernmental cooperating sponsors shall reimburse the United States for expenses incurred at their request and for their accommodation which are in excess of those which the United States would have otherwise incurred in making delivery

(i) at the lowest combination inland and ocean transportation costs to the United States as determined by the United States or

(ii) in sizes and types of packages announced as available.

(3) All costs and expenses incurred subsequent to the transfer of title in the U.S. to cooperating sponsors except as otherwise provided herein shall be borne by them. Upon the determination that it is in the interests of the program to do so, the United States may pay or make reimbursement for: ocean transportation costs from U.S. ports to the designated ports of entry aboard; or to designated points of entry abroad in the case

(i) of landlocked countries, (ii) where ports cannot be used effectively because of natural or other disturbances,

(iii) where carriers to a specific country are unavailable,

(iv) where a substantial savings in cost or time can be effected by the utilization of points of entry other than ports; or

(v) in the case of commodities for urgent and extraordinary relief requirements, including prepositioned commodities, transportation costs from designated points of entry or ports of entry abroad to storage and distribution centers and associated storage and distribution costs.

(d) *Transportation authorization.* A transfer authorization will be issued to cover the ocean freight paid directly by the United States. When A.I.D. contracts for ocean carriage, disbursement to the carriers shall be made by A.I.D. upon presentation of Standard Form 1034 and three copies of 1034A (Public Voucher for purchases and services other than personal), together with three copies of the related on-board ocean bill of lading, one copy of which must contain the following certification signed by an authorized representative of the steamship company:

> I certify that this document is a true and correct copy of the original on-board ocean bill of lading under which the goods herein described were located on the above-named vessel and that the original and all other copies thereof have been clearly marked as not to be certified for billing.
>
> (Name of steamship co.)
> By (Authorized representative)

Such voucher should be submitted to: Transportation Division, Office of Procurement, Agency for International Development, Washington, DC 20523. Except for duty, taxes and other costs exempted in § 211.7 (a) and (b) of this part, cooperating sponsors booking their own vessels will be reimbursed as provided in A.I.D. Regulation 2 (part 202 of this chapter) for ocean freight authorized by the United States upon presentation to A.I.D./W of proof of payment to the ocean carrier. A.I.D. will only reimburse voluntary agencies or cooperatives up to a maximum of 2-1/2 percent commission paid to their freight forwarders as a result of booking Public Law 480, Title II cargo. Proof of commissions paid must be submitted with requests for reimbursement.

(e) *Shipping instructions.*—(1) *Shipments booked by A.I.D.* Requests for shipment of commodities shall originate with the cooperating sponsor and shall be submitted to USAID or Diplomatic Post for clearance and transmittal to A.I.D./W. Arbitration clauses should not be included in any booking contracts for cargoes supplied by CCC. A.I.D./W shall, through cables, or letters to USAID or Diplomatic Post, provide cooperating sponsors (and where applicable voluntary agency headquarters) with names of vessels, expected times of arrival (ETAs), and other pertinent information on shipments booked by A.I.D. At the time of exportation of commodities, the freight forwarder representing A.I.D. shall send applicable ocean bills of lading by airmail, or by the fastest means available, to USDA, to the USAID or Diplomatic Post (and where applicable to the USAID Controller, voluntary agency headquarters, and voluntary agency field representative), and to the consignee in sufficient time to advise of the arrival of the shipment.

(2) Shipments booked by nongovernmental cooperating sponsor. Requests for shipment of commodities shall originate with the cooperating sponsor and shall be cleared by the USAID or Diplomatic Post before transmittal to the cooperating sponsor's headquarters for concurrence and issuance. The USAID or Diplomatic Post shall promptly clear such requests for shipment of commodities or, if there is reason for delay or disapproval, advise the cooperating sponsor and A.I.D./W within seven (7) days of receipt of requests for shipment. After the cooperating sponsor headquarters concurs in the request and issues the order, the original will be sent promptly to A.I.D./W-Office of Food for Peace which forwards it to USDA/ASCS for procurement action with a copy to the USAID or Diplomatic Post. Headquarters of cooperating sponsors which book their own shipments shall provide their representatives and the USAID or Diplomatic Post with the names of vessels, ETAs and other pertinent-information on shipments booked. At the time of exportation of commodities, applicable ocean bills of lading shall be sent airmail or by the fastest means available by the freight forwarder representing the cooperating sponsor, to USDA, the USAID or Diplomatic Post (and where applicable to the USAID Controller and the voluntary agency representative) and to the consignee in the country of destination in sufficient time to advise of the arrival of the shipment. However, voluntary agencies will also forward cable advice of actual exportation to their program directors in countries within the Caribbean area which are supplied by vessels having a rapid and short run from U.S. port to destination.

(f) *Tolerances.* Delivery by the United States to the cooperating sponsor at point of transfer of title within a tolerance of 5 percent (2 percent in the case of quantities over 10,000 metric tons) plus or minus, of the quantity

ordered for shipment shall be regarded as completion of delivery. There shall be no tolerance with respect to the ocean carrier's responsibility to deliver the entire cargo shipped and the United States assumes no obligation for failure by an ocean carrier to complete delivery to port of discharge.

§ 211.5 Obligations of cooperating sponsor.

(a) *Operational plans.* Each cooperating sponsor shall submit to the USAID or Diplomatic Post for their approval, upon which it is submitted to A.I.D./W, Office of Food for Peace for approval, within such times and on the forms prescribed by A.I.D./W, a description of the programs it is sponsoring or proposes to sponsor. This operational plan will include program purposes and goals; criteria for measuring program effectiveness; a description of the activities for which commodities, monetized proceeds, or program income will be provided or used; and other specific provisions in addition to those set forth in this Regulation. Further, this description will include information from which it may be determined that the distribution of commodities in the recipient country will not result in a substantial disincentive to domestic production and that adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent spoilage or waste of the commodity. For preparation of the operational plan, see Appendix II to this Regulation. Unless A.I.D. otherwise agrees in writing, a cooperating sponsor should not deviate from the operational plan and other program documents approved by A.I.D., except that within the limits of the total amount of commodities authorized for the program and the monetized proceeds and program income generated for the program the cooperating sponsor may increase or decrease by 10 percent the amount of commodities, monetized proceeds or program income allocated to approved components of the operational plan without prior written approval of A.I.D. Such adjustments must be identified specifically in the annual report submitted by a cooperating sponsor under § 211.10(b) of the Regulation.

(b) *Program supervision.* Cooperating sponsors shall provide adequate supervisory personnel for the efficient operation of the program, including personnel to plan, organize, implement, control, and evaluate programs involving distribution of commodities or use of monetized proceeds and program income, and to make internal reviews including warehouse inspections, physical inventories, and end-use checks of food or funds, and review of books and records maintained by recipient agencies that receive monetized proceeds and/or program income. Maximum use of volunteer personnel shall be encouraged, and cooperating sponsors shall be represented by a person resident in the country of distribution or other nearby country approved by A.I.D./W, who is appointed by and responsible to the cooperating sponsor for distribution of commodities or use of monetized proceeds or program income in accordance with the provisions of this Regulation.

(c) *Internal reviews.*—(1) *By nongovernmental cooperating sponsors.* These cooperating sponsors shall perform or arrange to have performed internal reviews on a schedule mutually agreed to, in writing, between the USAID or Diplomatic Post and the cooperating sponsor. These internal reviews should be scheduled on a reasonable frequency, on a continuing basis or at intervals agreed to by the USAID or Diplomatic Post, usually annually, but not less frequently than every two years. Such reviews shall be made by individuals who are sufficiently independent of those who authorize the distribution of Title II commodities, to produce unbiased opinions, conclusions or judgments. These reviews are to ascertain the effectiveness of management systems and procedures to meet the terms and conditions of this Regulation and the program agreement. The internal review will represent a complete review of the Title II program(s) and the system used should contain a systematic method to assure timely and appropriate resolutions of review findings and recommendations. Copies of these internal reviews must be promptly submitted to the USAID Mission or Diplomatic Post and A.I.D./W-FVA/FFP/PCD as required in § 211.10(b)(4).

(2) *By other cooperating sponsors.* In the case of programs administered by cooperating governments and by intergovernmental organizations, responsibility for conducting internal review examinations shall be determined by AID/W on a case-by-case basis. For records and reporting requirements see 211.10.

(d) *Commodity requirements; Annual Estimate of Requirements (AER).* Each cooperating sponsor shall submit to the USAID or Diplomatic Post, within such times and on the AER form prescribed by A.I.D./W, estimates of requirements showing the quantities of commodities required for each program proposed. Requirements shall be summarized for all programs in the country on a form prescribed by A.I.D./W.

(e) *Determination of eligibility of recipients.* Cooperating sponsors shall be responsible for determining that the recipients and recipient agencies to whom they distribute commodities are eligible in accordance with the terms and conditions of the Food for Peace Program Agreement and this Regulation. Cooperating sponsors shall impose upon recipient agencies responsibility for determining that the recipients to whom they distribute commodities or provide assistance with monetized proceeds or program income are eligible. Commodities shall be distributed free of charge except as provided in paragraph (i) of this section or § 211.5(o), below, or as otherwise authorized by A.I.D./W, but in no case will recipients be excluded from receiving commodities because of inability to make a contribution to the cooperating sponsor for any purpose.

(f) *No discrimination.* Cooperating sponsors shall distribute commodities to and conduct operations (with food or generated funds) only with eligible recipient agencies and eligible recipients without regard to nationality, race, color, sex, or religious or political beliefs, and shall impose similar conditions upon recipient agencies.

(g) *Public recognition.* To the maximum extent practicable, and with the cooperation of the host government, adequate public recognition shall be given in the press, by radio, and other media that the commodities or assistance have been furnished by the people of the United States. At distribution and feeding centers the cooperating sponsor shall, to the extent feasible, display banners, posters, or similar media which shall contain information similar to that prescribed for containers in paragraph (h)(1) of this section. Recipients' individual identification cards shall, insofar as practicable, be imprinted to contain such information.

(h) *Containers.*—(1) *Markings.* Unless otherwise specified in the Food for Peace Program Agreement, when commodities are packaged for shipment from the United States, bags and other containers shall be marked with the CCC contract number or other identification, the A.I.D. emblem and the following information stated in English:

(i) Name of commodity.

(ii) Furnished by the people of the United States of America.

(iii) Not to be sold or exchanged (where applicable).

(2) *Disposal of containers.* Cooperating sponsors may dispose of containers, other than containers provided by carriers, in which commodities are received in countries having approved Title II programs, by sale or exchange, or may distribute the containers free of charge to eligible food or fiber recipients for their personal use. If the containers are to be used commercially, the cooperating sponsor must arrange for the removal or obliteration of, or cross out, the U.S. Government markings from the containers prior to such use.

(i) *Use of funds.* In addition to funds accruing to cooperating sponsors from the sale of containers, funds may also be available from nominal contributions made in maternal, preschool, school and other child feeding programs where voluntary contributions by the recipients will be encouraged on the basis of ability to pay. Funds from these or from monetized proceeds or program income may be used by a nongovernmental cooperating sponsor

(1) to transport, store, distribute and otherwise enhance the effectiveness of the use of donated commodities and products thereof, including construction or improvement of storage facilities or warehouses, handling, insect and rodent control, payment of indigenous or third-country personnel employed by cooperating sponsor or recipient agencies in support of approved programs and

(2) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs and other developmental activities agreed upon by A.I.D. and the cooperating sponsor. Monetized proceeds and program income may be used by the cooperating sponsor and recipient agencies only for the purposes described in the operational plan, or otherwise approved by A.I.D., in writing, and only for such costs as would be allowable under Circular A–122 as amended, "Cost Principles for Nonprofit Organizations" published in the **Federal Register** July 8, 1980, FR 46022–46034, and at 46 FR 17185, March 17, 1981 by the Office of Management and Budget ("OMB"), available at the Office of Administration, OMB Publications Unit, Room G–236, New Executive Office Building, Washington, DC 20503, except that a recipient agency may use not to exceed $500 per year of voluntary contributions for institutional, community or social development or other humanitarian purposes without regard to the operational plan or OMB Circular A–122. (Governmental Cooperating sponsors shall use monetized proceeds and program income in accordance with section 206 of Public Law 480 where applicable as described in the TA with respect to such programs.)

The cooperating sponsor shall use commercially reasonable practices in construction activities and in purchasing goods and services using monetized proceeds or program income, shall maintain a code of standards of conduct regarding conflicts of interest, carry out procurement transactions in a manner to provide open and free competition to the maximum extent practicable, and maintain and make available to A.I.D. in accordance with § 211.10 below, records and documents regarding the procurement of goods and services with monetized proceeds and program income. Cooperating sponsors shall follow their own requirements relating to bid guarantees, performance bonds and payment bonds when program income or monetized proceeds are used to finance construction or the improvement of facilities, but shall consult with the USAID Mission or Diplomatic Post regarding such requirements when the estimated cost of such construction or improvements exceeds $100,000. Title to real and personal property shall be vested in the cooperating sponsor, except as provided in the operational plan or as A.I.D. may otherwise agree in writing, subject to the requirements of § 211.11 upon termination of the program. Monetized proceeds and program income may not be used to acquire, construct, alter or upgrade land, buildings or other real property improvements which are used in whole or in part for sectarian purposes or which are owned or managed by a church or other organization engaged exclusively in religious activity. Notwithstanding the preceding sentence, monetized proceeds or program income may be used to finance repair or rehabilitation of an existing structure owned or managed by a church or organization engaged exclusively in religious activity to the extent necessary to avoid spoilage or loss of donated commodities, provided that the structure is not used in whole or in part for any sectarian purpose while donated commodities are stored in it, and the use of monetized proceeds or program income to finance construction of such a structure may be approved in the operational plan or by the USAID or Diplomatic Post if the structure is needed and will be used for the storage of donated commodities for a sufficient period of time to warrant the expenditure of monetized proceeds or program income and the structure will not be used for any sectarian purpose during this period.

(j) *Report on funds.* The cooperating sponsor (headquarters, if there is more than one office) shall annually provide A.I.D./W–Office of Food for Peace (FFP) a report on the receipt and disbursement of all monetized proceeds and program income by cooperating sponsors and recipient agencies. This report should include the source of the funds, by country, and how the funds were used. This annual report should be submitted to A.I.D./W–FFP by December 31 of each calendar year for the fiscal year ending September 30 of that calendar year.

(k) *No displacement of sales.* Except in the case of emergency or disaster situations, the donation of commodities furnished for these programs shall not result in increased availability for export by the recipient country of the same or like commodities and shall not interfere with or displace sales in the recipient country which might otherwise take place. A country may be exempt from this proviso if circumstances warrant. Missions should seek A.I.D./W guidance on this matter.

(l) *Commodities borrowed or exchanged for programs.* After the date of the program approval by A.I.D./W, but before arrival at the distribution point of the commodities authorized, the cooperating sponsor may, with prior approval of the USAID or Diplomatic Post, borrow the same or similar commodities from local sources to meet program requirements provided that:

(1) Such of the commodities borrowed as are used in accordance with the terms of the applicable Food for Peace Program Agreement will be replaced with commodities authorized herein on an equivalent value basis at the time and place that the exchange takes place as determined by mutual agreement between the cooperating sponsor and the USAID or Diplomatic Post, except that at the request of the cooperating sponsor, the USAID or Diplomatic Post may determine that such replacement may be made on some other justifiable basis;

(2) Packaged commodities which are borrowed shall be appropriately identified insofar as practicable in the language of the country of distribution as having been furnished by the people of the United States; and

(3) Suitable publicity shall be given to the exchange of commodities as provided in paragraph (g) of this section and containers for borrowed commodities shall be marked to the extent practicable in accordance with § 211.6(c).

(m) *Commodity transfer between programs.* After the date of program approval by A.I.D./W, but before distribution of the commodities authorized herein by the recipient agency, the USAID or Diplomatic Post, (or the cooperating sponsor with prior approval of the USAID or Diplomatic Post) may transfer commodities between approved Title II programs to meet emergency disaster requirements or to improve efficiency of operation; for example, to meet temporary shortages due to delays in ocean transportation, or provide for rapid distribution of stocks in danger of deterioration. Transfers may also be made to disaster organizations for use in meeting exceptional circumstances. Commodity transfers shall be made at no cost to the U.S. Government and with the concurrence of the cooperating sponsor or disaster organization concerned. A USAID or Diplomatic Post with funds available may, however, provide funds to pay the costs of transfers to meet extraordinary relief requirements, in which case A.I.D./W shall be advised promptly of the details of the transfer. Commodities transferred as described above shall not be replaced by the U.S. Government unless A.I.D./W authorizes such replacement.

(n) *Disposal of excessive stock of commodities.* If commodities are on hand which cannot be utilized in accordance with the applicable Food for Peace Program Agreement, the cooperating sponsor shall promptly advise the USAID or Diplomatic Post of the quantities, location, and condition of such commodities, and where possible shall propose an alternate use of the excess stocks; the USAID or Diplomatic Post shall determine the most appropriate use of the excess stocks, and with prior A.I.D./W concurrence, shall issue instructions for disposition. Transportation costs and other charges attributable to transferring commodities from one program to another within the country shall be the responsibility of the cooperating sponsor, except that in case of disaster or emergency, A.I.D./W may authorize the use of disaster or emergency funds to pay for the costs of such transfers. (As to unfit commodity disposal, see § 211.8.)

(o) *Monetization programs.* For programs in which the sale of commodities is authorized by A.I.D., Paragraphs (e) and (f) of this section are not applicable to the extent they prohibit or restrict the sale or distribution to end users of the commodities approved for monetization, and §§ 211.5(h) and 211.6(c) are not applicable to the extent they require the marking or labeling of the containers of such commodities. Cooperating sponsors do not need to monitor, manage, report on or account for the distribution or use of commodities after title to the commodities has passed to buyers or other third parties pursuant to a sale under a monetization program and all sales proceeds have been fully deposited in the special interest bearing account established by the cooperating sponsor for monetized proceeds. However, the sales proceeds and the uses thereof must be monitored, managed, reported and accounted for as provided in this Regulation, with special reference to §§ 211.5(i), 211.5(j), and 211.10. It is not mandatory that commodities approved for monetization be imported and sold free of all duties and taxes, but nongovernmental cooperating sponsors may negotiate agreements with the host government permitting the tax-free import and sale of such commodities. Even where the cooperating sponsor negotiates tax-exempt status, the prices at which the cooperating sponsor sells the commodities to the purchaser should reflect prices that would be obtained in a commercial transaction, i.e., the prices would include the cost of duties and taxes. Thus, the amounts normally paid for duties and taxes would accrue for the benefit of the cooperating sponsor's approved program. Cooperating sponsors should refer to the "Monetization Field Manual" for more comprehensive guidance on setting the sales price. A copy of the Monetization Manual may be obtained from A.I.D./W–FVA/PPM, Washington, DC 20523.

(p) *Trilateral exchange programs.* The restrictions in this Regulation regarding the distribution, use or labeling of commodities shall not apply to commodities furnished by the CCC in exchange for other commodities obtained from third parties ("exchanged commodities") to be distributed in a recipient country under a trilateral exchange program. Except as the U.S. Government and the cooperating sponsor may otherwise agree in writing, title to the exchanged commodities will pass to the cooperating sponsor upon delivery to and acceptance by the cooperating sponsor at the point of delivery specified in the program documents. After title passes to the cooperating sponsor the exchanged commodities shall be deemed "commodities" covered by this Regulation with respect to all post-delivery obligations of the cooperating sponsor contained in this Regulation, including obligations regarding labeling, distribution, monitoring, reporting, accounting and use of commodities. In the event of difficulty in satisfying the labeling requirement the cooperating sponsor will consult with the USAID or Diplomatic Post for guidance.

§ 211.6 Processing, repackaging, and labeling commodities.

(a) *Commercial Processing and repackaging.* Cooperating sponsors or their designees may arrange for processing commodities into different end products and for packaging or repackaging commodities prior to distribution. When commercial facilities are used for processing, packaging or repackaging, cooperating sponsors or their designees shall enter into written agreements for such services. Except in the case of commodities or containers provided to foreign governments for sale, as under section 206 of Public Law 480, the agreements must have the prior approval of the USAID or Diplomatic Post in the country of distribution. Except as A.I.D./W otherwise agrees, the executed agreements shall provide as a minimum that:

(1) No part of the commodities delivered to the processing, packaging, or repackaging company shall be used to defray processing, packaging, repackaging, or other costs, except as provided in paragraph (a)(2) of this section, immediately below.

(2) When the milling of grain is authorized in the cooperating country, the U.S. will not pay any part of the processing costs, directly or indirectly, except that with the prior approval of A.I.D./W, the value of the offal may be used to offset such part of the processing costs as it may cover.

(3) The party providing such services shall:

(i) Fully account to the cooperating sponsor for all commodities delivered to the processor's possession and shall maintain adequate records and submit periodic reports pertaining to the performance of the agreement;

(ii) Be liable for the value of all commodities not accounted for as provided in § 211.9(g);

(iii) Return or dispose of the containers in which the commodity is received from the cooperating sponsor according to instructions from the cooperating sponsor; and

(iv) Plainly label carton, sacks, or other containers containing the end product in accordance with paragraph (c) of this section.

(b) *Use of cooperating sponsor facilities.* When cooperating sponsors utilize their own facilities to process, package, or repackage commodities into different end products, and when such

products are distributed for consumption off the premises of the cooperating sponsor, the cooperating sponsor shall plainly label the containers as provided in paragraph (c) of this section, and banners, posters, or similar media which shall contain information similar to that prescribed in paragraph (c) of this section, shall be displayed at the distribution center. Recipients' individual identification cards shall to the maximum extent practicable be imprinted to contain such information.

(c) *Labeling.* If prior to distribution the cooperating sponsor arranges for packaging or repackaging donated commodities, the cartons, sacks, or other containers in which the commodities are packed shall be plainly labeled wit:h the A.I.D. emblem, and insofar as practicable, with the following information in the language of the country in which the commodities are to be distributed:

(1) Name of commodity;

(2) Furnished by the people of the United States of America; and

(3) Not to be sold or exchanged (where applicable). Emblems or other identification of nongovernmental cooperating sponsors may also be added.

(d) *Where commodity containers are not used.* When the usual practice in a country is not to enclose the end product in a container, wrapper, sack, etc., the cooperating sponsor shall, to the extent practicable, display banners, posters, or other media, and imprint on individual recipient identification cards information similar to that prescribed in paragraph (c) of this section.

§ 211.7 Arrangements for entry and handling in foreign country.

(a) *Costs at discharge ports.* Except as otherwise agreed upon by A.I.D./W and provided in the applicable shipping contract or in paragraphs (d) and (e) of this section, the cooperating sponsor shall be responsible for all costs, other than those assessed by the delivering carrier either in accordance with its applicable tariff for delivery to the discharge port, or in accordance with the applicable charter or booking contract. The cooperating sponsor shall be responsible for all costs for

(1) Distributing the commodity as provided in the Food for Peace Program Agreement to end users;

(2) For demurrage, detention, and overtime; and

(3) For obtaining independent discharge survey reports as provided in § 211.9.

The cooperating sponsor shall also be responsible for wharfage, taxes, dues, and port charges assessed and collected by local authorities from the consignee, and for lighterage (when not a custom of the port), and lightening costs when assessed as a charge separate from the freight rate.

(b) *Duty, taxes, and consular invoices.* Except for commodities which are to be monetized (sold) under an approved operational plan (See § 211.5(o)), commodities shall be admitted duty free and exempt from all taxes. Consular invoices shall not be required unless specific provision is made in the Food for Peace Program Agreement. If required, they shall be issued without cost to the cooperating sponsor or to the Government of the United States. The cooperating sponsor shall be responsible for ensuring prompt entry and transit in the foreign country(ies) and for obtaining all necessary import permits, licenses or other appropriate approvals for entry and transit, including phytosanitary, health and inspection certificates.

(c) *Storage facilities and transportation in foreign countries.* In addition, the cooperating sponsors shall provide, to the USAID or Diplomatic Post, assurance that all necessary arrangements for receiving the commodities have been made, and shall assume full responsibility for storage and maintenance of the commodities from time of delivery at port of entry abroad or, when authorized, at other designated points of entry abroad agreed upon between the cooperating sponsor and A.I.D. Before recommending approval of a program to A.I.D./W, the USAID or Diplomatic Post shall obtain, from the cooperating sponsor, assurance that provision has been made for internal transportation, and for storage and handling which are adequate by local commercial standards. The cooperating sponsor shall be responsible for the maintenance of the commodities in such manner as to assure distribution of the commodities in good condition to recipient agencies or eligible recipients.

(d) Inland transportation in intermediate countries. In the case of landlocked countries, transportation in the intermediate country to a designated inland point of entry in the recipient country shall be arranged by the cooperating sponsor unless otherwise provided in the Food for Peace Program Agreement or other program document. Nongovernmental cooperating sponsors shall handle claims arising from loss or damage in the intermediate country, in accordance with § 211.9(e). Other cooperating sponsors shall assign any rights that they may have to any claims that arise in the intermediate country to the USAID or Diplomatic Post which shall pursue and shall retain the proceeds of such claims.

(e) *Authorization for reimbursement of costs.* If, because of packaging damage, it is determined by a nongovernmental cooperating sponsor that commodities must be repackaged to ensure that the commodities arrive at the distribution point in a wholesome condition, the nongovernmental cooperating sponsor may incur expenses for such repackaging up to $500 and such costs will be reimbursed to the nongovernmental cooperating sponsor by CCC. If costs will exceed $500, the authority to repackage and incur the costs must be approved by the USAID or Diplomatic Post in advance of repackaging unless such prior approval is specifically waived, in writing, by the USAID or Diplomatic Post. For losses in transit, the $500 limitation shall apply to all commodities which are shipped on the same voyage of the same vessel to the same port destination, irrespective of the kinds of commodities shipped or the number of different bills of lading issued by the carrier. For other losses, the $500 limitation shall apply to each loss situation, e.g., if 700 bags are damaged in a warehouse due to an earthquake, the $500 limitation applies to the total cost of repackaging the 700 bags. Shipments may not be artificially divided in order to avoid the limitation of $500 or for obtaining prior approval to incur repackaging costs.

(f) *Method of Reimburement*—(1) Repackaging required because of damage occurring prior to or during discharge from the ocean carrier. Costs of such reconstitution or repackaging should be included, as a separate item, in claims filed against the ocean carrier (see § 211.9(c)). Full reimbursement of such costs up to $500 will be made by CCC, KCCO upon receipt of invoices or other documents to support such costs. For amounts expended in excess of $500, reimbursement will be made upon receipt of supporting invoices or other documents establishing the costs of repackaging and showing the prior approval of the USAID or Diplomatic Post to incur the costs (unless approval waived, see § 211.7(e)).

(2) Repackaging required because of damage caused after discharge of the cargo from the ocean carrier. Costs of such repackaging will be reimbursed to the agency or organization by CCC (USDA–ASCS Fiscal Division, 14th & Independence Avenue, Washington, DC 20250) upon receipt of documentation as set forth in section 211.7(e).

§ 211.8 Disposition of commodities unfit for authorized use.

(a) *Prior to delivery to cooperating sponsor at discharge port or point of entry.* If the commodity is damaged prior to delivery to the cooperating sponsor (other than a nongovernmental cooperating sponsor, which shall arrange for such inspection) at discharge port or point of entry overseas, the USAID or Diplomatic Post shall immediately arrange for inspection by a public health official or other competent authority. If the commodity is determined to be unfit for human consumption, the USAID or Diplomatic Post shall dispose of it in accordance with the priority set forth in paragraph (b) of this section, below. Expenses incidental to the handling and disposition of the damaged commodity shall be paid by the USAID or Diplomatic Post from the sales proceeds, from CCC Account No. 20FT401 or from special Title II, Public Law 480 Agricultural Commodity Account. The net proceeds of sales shall be deposited with the U.S. Disbursing Officer American Embassy, for the credit of CCC Account No. 20FT401.

(b) *After delivery to cooperating sponsor.* If after arrival in a foreign country it appears that the commodity, or any part thereof, may be unfit for the use authorized in the Food for Peace Program Agreement, the cooperating sponsor shall immediately arrange for inspection of the commodity by a public health official or other competent authority approved by the USAID or Diplomatic Post. If no competent local authority is available, the USAID or Diplomatic Post may determine whether the commodities are unfit for human consumption, and if so may direct disposal in accordance with paragraphs (b) (1) through (4) of this section. The cooperating sponsor shall arrange for the recovery for authorized use of that part designated during the inspection as suitable for program use. If, after inspection, the commodity (or any part thereof) is determined to be unfit for authorized use the cooperating sponsor shall notify the USAID or Diplomatic Post of the circumstances pertaining to the loss or damage as prescribed in § 211.9(f). With the concurrence of the USAID or the Diplomatic Post, the commodity determined to be unfit for authorized use shall be disposed of in the following order of priority:

(1) By transfer to an approved Food for Peace program for use as livestock feed. A.I.D./W shall be advised promptly of any such transfer so that shipments from the United States to the livestock feeding program can be reduced by an equivalent amount;

(2) Sale for the most appropriate use, i.e., animal feed, fertilizer, or industrial use, at the highest obtainable price. When the commodity is sold, all U.S. Government markings shall be obliterated, removed or crossed out;

(3) By donation to a governmental or charitable organization for use as animal feed or for other nonfood use; and

(4) If the commodity is unfit for any use or if disposal in accordance with paragraph (b) (1), (2), or (3) of this section, is not possible, the commodity shall be destroyed under the observation of a representative of the USAID or Diplomatic Post, if practicable, in such manner as to prevent its use for any purpose. Expenses incidental to the handling and disposition of the damaged commodity shall be paid by the cooperating sponsor unless it is determined by the USAID or Diplomatic Post that the damage could not have been prevented by the proper exercise of the cooperating sponsor's responsibility under the terms of the Food for Peace Program Agreement. Actual expenses incurred, including third party costs, in effecting any sale may be deducted from the sales proceeds and, except for monetization programs, the net proceeds shall be deposited with the U.S. Disbursing Officer, American Embassy, with instructions to credit the deposit to CCC Account No. 20FT401. In monetization programs, net proceeds shall be deposited in the special account used for funds for the approved program. The cooperating sponsor shall promptly furnish the USAID or Diplomatic Post a written report of all circumstances relating to the loss and damage. The report or supplemental report shall include a certification by a public health official or other competent authority of the exact quantity of the damaged commodity disposed of because it was determined to be unfit for human consumption.

§ 211.9 Liability for loss, damage or improper distribution of commodities.

Note: Where the instructions in this § 211.9 state that the cooperating sponsor should contact USDA or CCC, contact office is: Kansas City ASCS Commodity Office (KCCO), P.O. Box 419205, Kansas City, Missouri 64141–6205. For section 211.9 (a) and (b) contact: KCCO, Chief, Processed Commodities Division. For section 211.9(c) contact: KCCO, Chief, Claims and Collections Division, Kansas City, Missouri 64141–6105.

(a) *Fault of cooperating sponsor prior to loading on ocean vessel.* If a nongovernmental cooperating sponsor books cargo for ocean transportation and is unable to have a vessel at the U.S. port of export for loading in accordance with the agreed shipping schedule, the nongovernmental cooperating sponsor shall immediately notify the USDA. The USDA will determine whether the commodity shall be (1) Moved to another available outlet; (2) Stored at the port for delivery to the nongovernmental cooperating sponsor when a vessel is available for loading; or (3) Disposed of as the USDA may deem proper.

When additional expenses are incurred by CCC as a result of a failure of the nongovernmental cooperating sponsor, or their agent, to meet the agreed shipping schedule, or to make necessary arrangements to accept commodities at the points of delivery designated by CCC, and it is determined by CCC that the expenses were incurred because of the fault or negligence of the nongovernmental cooperating sponsor, the cooperating sponsor shall reimburse CCC for such expenses or take such action as directed by CCC.

(b) Fault of others prior to loading on ocean vessel. Upon the happening of any event creating any rights against a warehouseman, carrier, or other person for the loss of or damage to a commodity occurring between the time title is transferred to a nongovernmental cooperating sponsor and the time the commodity is loaded on board vessel at designated port of export, the nongovernmental cooperating sponsor shall immediately notify CCC and promptly assign to CCC any rights to claims which may accrue to it as a result of such loss or damage and shall promptly forward to CCC all documents pertaining thereto. CCC shall have the right to initiate and prosecute, and retain the proceeds of all claims for such loss or damage.

(c) *Ocean carrier loss and damage.—(1) Survey and outturn reports.* (i) Cooperating sponsors shall arrange for an independent cargo surveyor to attend the discharge of the cargo and to count or weigh the cargo and examine its condition, unless the USAID or Diplomatic Post determines that such examination is not feasible, or if CCC has made other provision for such examinations and reports. The surveyor shall prepare a report of its findings showing the quantity and condition of the commodities discharged. The report shall also show the probable cause of any damage noted, and set forth the time and place when the examination was made. If practicable, the examination of the cargo shall be conducted jointly by the surveyor, the

consignee, and the ocean carrier, and the survey report shall be signed by all parties. Customs receipts, port authority reports, shortlanding certificates, cargo boat notes, stevedore's tallies, etc., where applicable, shall be obtained and furnished with the report of the surveyor. The cooperating sponsor shall obtain a certification by a public health official or similar competent authority as to

(A) the condition of the commodity in any case where a damaged commodity appears to be unfit for its intended use; and

(B) a certificate of disposition in the event the commodity is determined to be unfit for its intended use. Such certificates shall be obtained as soon as possible after discharge of the cargo. In any case where the cooperating sponsor can provide a narrative chronology or other commentary to assist in the adjudication of ocean transportation claims, such information should be forwarded as described below. Cooperating sponsors shall prepare such a statement in any case where the loss is estimated to be in excess of $5,000. All documentation shall be in English or supported by an English translation and shall be forwarded as set forth in paragraph (c)(1) (iii) and (iv) of this section. Such cost of an English translation shall be incorporated into the survey fee. The cooperating sponsor may, at its option, also engage the independent surveyor to supervise clearance and delivery of the cargo from customs or port areas to the cooperating sponsor or its agent and to issue delivery survey reports thereon.

(ii) In the event of cargo loss and damage, the cooperating sponsor shall provide the names and addresses of individuals who were present at the time of discharge and during survey and who can verify the quantity lost or damaged. In the case of bulk grain shipments, the cooperating sponsor shall obtain the services of an independent surveyor to—

(A) Observe discharge of the cargo;

(B) Report on discharging method. Remarks should be included on scale type, calibrations, and any other factor which may affect the accuracy of scale weights. If scales are not used, the reason should be stated and the method of weight determination fully described;

(C) Provide information as to whether cargo was discharged in accordance with port customs;

(D) Provide actual or estimated (if scales not used) quantity of cargo lost during discharge and specify how such losses occurred;

(E) obtain copies of port and/or ship records including scale weights, where applicable, to show quantity discharged;

(F) Verify that upon conclusion of discharge, cargo holds are empty. If any cargo is damaged, USDA requires information as to quantity, type and cause;

(G) When cargo is bagged and stacked by vessel interests, surveyor should also furnish daily tally totals and any other pertinent information relative to the bagging of the bulk cargo; and

(H) Provide immediate notification to cooperating sponsor if additional services are necessary to protect cargo interests or if surveyor has reason to believe that the correct quantity was not discharged. The cooperating sponsor, in the case of damage to bulk grain shipments, shall obtain and provide the same documentation regarding quality of cargo as set forth in § 211.8(a) of this Regulation and paragraph (c)(1)(i) of this section. In the case of shipments arriving in container vans, cooperating sponsors shall require the independent surveyor to list the container van numbers and seal numbers shown on the container vans, and indicate whether the seals were intact at the time the container vans were opened, and whether the container vans were in any way damaged. To the extent possible, the independent surveyor should observe discharge of container vans from the vessel to ascertain whether any damage to the container van occurred and arrange for surveYing the contents of any damaged container vans as they are opened.

(iii) Cooperating Sponsors shall send copies to USDA of all reports and documents pertaining to the discharge of commodities. For those surveys arranged by CCC, the cooperating sponsors may obtain a copy of the report from the local USAID Food for Peace Officer.

(iv) CCC will reimburse a nongovernmental cooperating sponsor for the costs incurred by it in obtaining the services of an independent surveyor to conduct examinations of the cargo and render the report set forth above. Reimbursement by CCC will be made upon receipt by CCC of the survey report and the surveyor's invoice or other documents that establish the survey cost. However, CCC will not reimburse a nongovernmental cooperating sponsor for the costs of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken contemporaneously with the discharge of the vessel, unless such deviation from the documentation requirements of paragraph (c)(1) of this section is justified to the satisfaction of CCC.

(v) CCC will normally contract for the survey of cargo on shipments furnished under Transfer Authorizations. Survey contracts will normally be let on a competitive bid basis. However, if a USAID or Diplomatic Post desires that CCC limit its consideration to only certain selected surveyors, the USAID or Diplomatic Post shall furnish A.I.D./W a list of eligible surveyors for forwarding to CCC. Surveyors may be omitted from the list, for instance, based on foreign relations considerations, conflicts of interest, and/or lack of demonstrated capability to properly carry out surveying responsibilities as set forth in the requirements of CCC. Upon receipt of written justification for removal of a particular survey firm, CCC will consider removal of such firm and advise the USAID via A.I.D./W of the final determination. A.I.D./W will furnish CCC's surveying requirements to a USAID or Diplomatic Post upon request. If CCC is unable to find a surveyor at a port to which a shipment has been consigned, CCC may request A.I.D./W to contact the USAID or Diplomatic Post to arrange for a survey. The surveyor's bill for such services shall be submitted to the USAID or Diplomatic Post for review. After the billing has been approved, the USAID or Diplomatic Post may either pay the bill or forward the bill to A.I.D./W for transmittal to CCC for payment. If the USAID or Diplomatic Post pays the bill, A.I.D./W shall be advised of the amount paid and CCC will reimburse the USAID or Diplomatic Post.

(2) *Claims against ocean carriers.* (i) Whether or not title to the commodities has been transferred from CCC to the cooperating sponsor, if A.I.D. or its agents or representatives contracted for the ocean transportation, CCC shall have the right to initiate and prosecute, and retain the proceeds of, all claims against ocean carriers for cargo loss and damage arising out of shipments of commodities transferred or delivered by CCC hereunder.

(ii)(A) Unless otherwise provided in the Food for Peace Program Agreement or other program document, nongovernmental cooperating sponsors shall file notice of any cargo loss and damage with the ocean carrier immediately upon discovery of any such loss and damage and shall promptly initiate claims against the ocean carrier for cargo loss and damage and shall take all necessary action to obtain restitution for losses within any applicable periods of limitations and shall transmit to CCC copies of all such claims. However, the nongovernmental cooperating sponsor need not file a claim when the cargo loss is not in excess of $25, or in any case when the

loss is in excess of $25, but not in excess of $100 and it is determined by the nongovernmental cooperating sponsor that the cost of filing and collecting the claim will exceed the amount of the claim. The nongovernmental cooperating sponsor shall transmit to CCC copies of all claims filed with the ocean carriers for cargo loss and damage, as well as information and/or documentation on shipments when no claim is to be filed. When General Average (see definition) has been declared, no action will be taken by the nongovernmental cooperating sponsor to file or collect claims for loss or damage to commodities. (See paragraph (c)(2)(iii) of this section.)

(B) Determination of value. The value of commodities misused, lost or damaged, shall be determined on the basis of the domestic market price at the time and place the misuse, loss or damage occurred, or, in case it is not feasible to obtain or determine such market price, the f.o.b. or f.a.s. commercial export price of the commodity at the time and place of export, plus ocean freight charges and other costs incurred by the Government of the United States in making delivery to the cooperating sponsor. When the value is determined on a cost basis, the nongovernmental cooperating sponsors may add to the value any provable costs they have incurred prior to delivery by the ocean carrier. In preparing the claim statement, thse costs shall be clearly segregated from costs incurred by the Government of the United States. With respect to claims other than ocean carrier loss and/or damage claims, at the request of the cooperating sponsor or upon the recommendation of the USAID or Diplomatic Post, A.I.D./W may determine that such value may be determined on some other justifiable basis. When replacement is made, the value of commodities misused, lost or damaged, shall be their value at the time and place the misuse, loss, or damage occurred and the value of the replacement commodities shall be their value at the time and place replacement is made.

(C) Amounts collected by nongovernmental cooperating sponsors on claims against ocean carriers not in excess of $100 may be retained by the nongovernmental cooperating sponsor. On claims involving loss or damage having a value in excess of $100 nongovernmental cooperating sponsors may retain from collections received by them, the larger of

(*1*) the amount of $100 plus 10 percent of the difference between $100 and the total amount collected on the claim, up to a maximum of $350, or

(*2*) actual administrative expenses incurred in collection of the claim; provided retention of such expenses is approved by CCC.

Collection costs shall not be deemed to include attorneys fees, fees of collection agencies, and the like. In no event will collection costs in excess of the amount collected on the claim be paid by CCC. The nongovernmental cooperating sponsors may also retain from claim recoveries remaining after allowable deductions for administrative expenses of collection, the amount of any special charges, such as handling, packing, and insurance costs, which the nongovernmental cooperating sponsor has incurred on the lost or damaged commodity and which are included in the claims and paid by the liable party.

(D) The nongovernmental cooperating sponsor may redetermine claims on the basis of additional documentation or information, not considered when the claims were originally filed when such documentation or information clearly changes the ocean carrier's liability. Approval of such changes by CCC is not required regardless of amount. However, copies of redetermined claims and supporting documentation or information shall be furnished to CCC.

(E) The nongovernmental cooperating sponsor may negotiate compromise settlements of claims regardless of the amount thereof, except that proposed compromise settlements of claims having a value in excess of $5,000 shall not be accepted until such action has been approved in writing, by CCC. When a claim is compromised, the nongovernmental cooperating sponsor may retain from the amount collected, the amounts authorized in (c)(2)(ii)(c) of this section, above, and in addition, an amount representing such percentage of the special charges described in (c)(2)(ii)(c) of this section as the compromised amount is to the full amount of the claim. When a claim is not in excess of $600, the nongovernmental cooperating sponsor may terminate collection activity on the claim according to the standards set forth in 4 CFR 104.3 (1984). Approval of such termination by CCC is not required but the nongovernmental cooperating sponsor shall notify CCC when collection activity on a claim is terminated.

(F) All amounts collected in excess of the amounts authorized herein to be retained shall be remitted to CCC. For the purpose of determining the amount to be retained by the nongovernmental cooperating sponsor from the proceeds of claims filed against ocean carriers, the word "claim" shall refer to the loss and damage to commodities which are shipped on the same voyage of the same vessel to the same port destination, irrespective of the kinds of commodities shipped or the number of different bills of lading issued by the carrier. If a nongovernmental cooperating sponsor is unable to effect collection of a claim or negotiate an acceptable compromise settlement within the applicable period of limitation or any extension thereof granted in writing by the liable party or parties, the rights of the nongovernmental cooperating sponsor to the claim shall be assigned to CCC in sufficient time to permit the filing of legal action prior to the expiration of the period of limitation or any extension thereof. Nongovernmental cooperating sponsors shall promptly assign their claim rights to CCC upon request. In the event CCC effects collection or other settlement of the claim after the rights of the nongovernmental cooperating sponsor to the claim have been assigned CCC, CCC shall, except as shown below, pay to the nongovernmental cooperating sponsor the amount the agency or organization would have been entitled to retain had they collected the same amount. However, the additional 10 percent on amounts collected in excess of $100 will be payable only if CCC determines that reasonable efforts were made to collect the claim prior to the assignment, or if payment is deemed to be commensurate with the extra efforts exerted in further documenting claims. Further, if CCC determines that the documentation requirements of section 211.9(c)(1), above, have not been fulfilled and the lack of such documentation has not been justified to the satisfaction of CCC, CCC reserves the right to deny payment of all allowances to the nongovernmental cooperating sponsor.

(G) When nongovernmental cooperating sponsors fail to file claims, or permit claims to become time-barred, or fail to provide for the right of CCC to assert such claims, as provided in this § 211.9, and it is determined by CCC that such failure was due to the fault or negligence of the nongovernmental cooperating sponsor, the agency or organization shall be liable to the United States for the cost and freight (C&F) value of the commodities lost to the program.

(iii) If a cargo loss has been incurred on a nongovernmental cooperating sponsor shipment, and general average has been declared, the nongovernmental cooperating sponsor shall furnish to the Chief, Claims and Collections Division, Kansas City Commodity Office, P.O. Box 419205, Kansas City, Mo. 64141–

0205, with a duplicate copy to A.I.D./W–PDC/FFP/POD, Washington, DC 20523—

(A) Copies of booking confirmations and the applicable on-board bill(s) of lading,

(B) The related outturn or survey report(s),

(C) Evidence showing the amount of ocean transportation charges paid to the carrier(s), and

(D) An assignment to CCC of the cooperating sponsor's right to the claim(s) for such loss.

(d) *Fault of cooperating sponsor in country of distribution.* If a commodity, monetized proceeds or program income is used for a purpose not permitted under the Food for Peace Program Agreement, under the approved operational plan and other program documents or under this Regulation, or if the cooperating sponsor improperly distributes a commodity, or causes loss or damage to a commodity or monetized proceeds or program income through any act or omission or fails to provide proper storage, care, and handling, the cooperating sponsor shall pay to the United States the value of the commodities, proceeds or program income, lost, damaged, or misused (or may, with prior USAID or Diplomatic Post approval, replace such commodities with similar commodities of equal value), unless it is determined by A.I.D. that such improper distribution or use, or such loss or damage, could not have been prevented by proper exercise of the cooperating sponsor's responsibility under the terms of the agreement. Normal commercial practices in the country of distribution shall be considered in determining whether there was a proper exercise of the cooperating sponsor's responsibility. Payment by the cooperating sponsor shall be made in accordance with paragraph (g) of this section.

(e) *Fault of others in country of distribution and in intermediate country.* (1) In addition to survey and/or outturn reports to determine ocean carrier loss and damage, the cooperating sponsor shall, in the case of landlocked countries, arrange for an independent survey at the point of entry into the recipient country and to make a report as set forth in paragraph (c)(1) of this section. CCC will reimburse the cooperating sponsor for the costs of a survey as set forth in paragraph (c)(1)(iv) of this section.

(2) Upon the happening of any event creating any rights against a warehouseman, carrier or other person for the loss of, damage to, or misuse of any commodity or for the loss or misuse of monetized proceeds or program income, the cooperating sponsor shall make every reasonable effort to pursue collection of claims against the liable party or parties for the value of the commodity lost, damaged, or misused or the value of the monetized proceeds or program income and furnish a copy of the claim and related documents to the USAID or Diplomatic Post. Cooperating sponsors who fail to file or pursue such claims shall be liable to A.I.D. for the value of the commodities or monetized proceeds or program income lost, damaged, or misused: Provided, however, that the cooperating sponsor may elect not to file a claim if the loss is less than $500 and such action is not detrimental to the program. Cooperating sponsors may retain $150 of any amount collected on an individual claim. In addition, cooperating sponsors may, with the written approval of the USAID or Diplomatic Post, retain either special costs such as reasonable legal fees that they have incurred in the collection of a claim, or pay such legal fees with monetized proceeds or program income. Any proposed settlement for less than the full amount of the claim must be approved by the USAID or Diplomatic Post prior to acceptance. When the cooperating sponsor has exhausted all reasonable attempts to collect a claim, it shall request the USAID or Diplomatic Post to provide further instructions.

(3) Calculation of the amount of a claim against others. A claim is the right a cooperating sponsor has against a third party as a result of an event for which the third party is responsible that caused the loss, damage or misuse of commodities, monetized proceeds or program income. The amount of the claim is based on the value of the commodities, monetized proceeds or program income lost, damaged or misused as a result of the event. An individual claim may not be broken down artificially to enlarge the amount the cooperating sponsor may retain as an administrative allowance on collection of the claim. For example, if a cooperating sponsor executes a contract with a carrier to transport commodities from points A to B, and losses occur during transport, the cooperating sponsor has one claim against the carrier, and the amount of the claim will be based on the total value of the commodities lost even though some of the loss might have occurred on each of several trucks or by subcontractors used by the carrier to satisfy its contract responsibility to transport the commodities.

(4) Reasonable attempts to collect the claim shall not be less than the follow-up of initial billings with three progressively stronger demands at not more than 30-day intervals. If these efforts fail to elicit a satisfactory response, legal action in the judicial system of the cooperating country should be pursued unless

(i) liability of the third party is not provable,

(ii) the cost of pursuing the claim would exceed the amount of the claim,

(iii) the third party would not have enough assets to satisfy the claim after a judicial decision favorable to the cooperating sponsor,

(iv) maintaining legal action in the country's judicial system would seriously impair the cooperating sponsor's ability to conduct an effective program in the country, or

(v) it is inappropriate for reasons relating to the judiciary or judicial system of the country.

A cooperating sponsor's decision not to take legal action, and reasons therefore, must be submitted in writing to the USAID or Diplomatic Post for review and approval, and the USAID or Diplomatic Post may require the cooperating sponsor to obtain and submit the opinion of competent legal counsel to support its decision. A cooperating sponsor also may request approval to terminate legal action after it has commenced if it is apparent that any of the exceptions described above becomes applicable or if it is otherwise appropriate to terminate legal action prior to judgment. In each instance the USAID or Diplomatic Post must provide the cooperating sponsor a written explanation of its decision. If the USAID or Diplomatic Post approves a cooperating sponsor's decision not to take further action on the claim for reasons described in paragraph (e)(4)(iv) or (v) of this section, the cooperating sponsor shall assign the claim to A.I.D. and shall provide to A.I.D. all documentation relating to the claim.

(5) As an alternative to legal action in the judicial system of the country with regard to claims against a public entity of the government of the cooperating country, the cooperating sponsor and the cooperating country may agree to settle disputed claims by an appropriate administrative procedure and/or arbitration. This alternative may be established in the Individual Country Food for Peace Program Agreement required under § 211.3(b), or by a separate formal understanding, and must be submitted to the USAID Mission or Diplomatic Post for review and approval. Resolution of disputed claims by any administrative procedure or arbitration agreed to by the cooperating sponsor and the cooperating country should be final and binding on the parties. If it is necessary for the USAID or Diplomatic Post to take an

assignment of a claim or claims from a cooperating sponsor, the USAID or Diplomatic Post shall consult with A.I.D./W regarding the appropriate action to take on the assigned claim or claims, unless standing guidance is in effect.

(f) *Reporting losses to the USAID or Diplomatic Post.* (1) The cooperating sponsor shall promptly notify the USAID or Diplomatic Post, in writing, of the circumstances pertaining to any loss, damage, or misuse of commodities valued at $500 or more occurring within the country of distribution or intermediate country. The report shall be made as soon as the cooperating sponsor has adequately investigated the circumstances, but in no event more than ninety (90) days from the date the loss become known to the cooperating sponsor. The report shall include information regarding who had possession of the commodities and who might be responsible for the loss, damage or misuse; the kind and quantities of commodities; size and type of containers; the time and place of misuse, loss or damage, the current location of the commodity; and the Food for Peace Program Agreement number, the CCC contract numbers, if known, or if unknown, other identifying numbers printed on the commodity containers; the action taken by the cooperating sponsor with respect to recovery or disposal; and the estimated value of the commodity. If any of the above information is not available, the cooperating sponsor shall explain why it is not. Similar information should also be reported regarding any loss or misuse of monetized proceeds or program income.

(2) The cooperating sponsor shall report quarterly to USAID or Diplomatic Post any loss, damage or misuse of commodities valued at less than $500, provided that the cooperating sponsor shall inform the USAID or Diplomatic Post if it has reason to believe there is a pattern or trend in the loss, damage, or misuse of such commodities and submit a report on the basis described in paragraph (f)(1) of this section, together with such other information as the cooperating sponsor has available to it. The USAID or Diplomatic Post may require additional information about any commodities lost, damaged or misused if it believes such information is necessary in order to maintain the integrity of the program.

(3) If any commodity, monetized proceeds or program income is lost or misused under circumstances which give a cooperating sponsor reason to believe that the loss or misuse has occurred as a result of criminal activity, the cooperating sponsor shall promptly report these circumstances to the A.I.D. Inspector General through A.I.D./W, USAID or Diplomatic Post, and subsequently to the appropriate authorities of the cooperating country unless instructed not to do so by A.I.D. The cooperating sponsor also shall cooperate fully with any subsequent investigation by the Inspector General and/or authorities of the cooperating country.

(g) *Handling claims proceeds.* Claims against ocean carriers shall be collected in U.S. dollars (or in the currency in which freight is paid, or a pro rata share of each) and shall be remitted (less amounts authorized to be retained) by nongovernmental cooperating sponsors to CCC. Claims against nongovernmental cooperating sponsors shall be paid to CCC or A.I.D./W in U.S. dollars. With respect to commodities lost, damaged or misused: amounts paid by other cooperating sponsors and third parties in the country of distribution shall be deposited with the U.S. Disbursing Officer, American Embassy, preferably in U.S. dollars with instructions to credit the deposit to CCC Account No. 12X4336, or in local currency at the official exchange rate applicable to dollar imports at the time of deposit with instructions to credit the deposit to Treasury sales account 20FT401. With respect to monetized proceeds and program income, amounts recovered should be deposited into the special interest bearing account established for the monetized proceeds and may be used for purposes of the approved program.

(h) *General Average.* CCC shall

(1) Be responsible for settling General Average and marine salvage claims;

(2) Retain the authority to make or authorize any disposition of commodities which have not commenced ocean transit or of which the ocean transit is interrupted, and receive and retain any monetary proceeds resulting from such disposition;

(3) In the event of a declaration of general average, initiate and prosecute, and retain all proceeds of, cargo loss and damage claims against ocean carriers; and

(4) Receive and retain any allowance in General Average. CCC will pay any General Average or marine salvage claims determined to be due.

§ 211.10 Records and reporting requirements of cooperating sponsor.

(a) *Records.* Cooperating sponsors shall maintain records and documents in a manner which will accurately reflect all transactions pertaining to the receipt, storage, distribution, sale, inspection and use of commodities and pertaining to receipt and disbursement of any monetized proceeds and program income and the operation of the program and records described § 211.5(i). Such records shall be retained for a period of 3 years from the close of the U.S. fiscal year to which they pertain, or longer, upon request by A.I.D. for cause, such as in the case of litigation of a claim or an audit concerning such records. The cooperating sponsor shall transfer to A.I.D. any records, or copies thereof, requested by A.I.D.

(b) *Reports.* Cooperating sponsors shall submit reports to the USAID or Diplomatic Post and to A.I.D./W, not less than annually, relating to progress and problems in the implementation of the program, and inspection or evaluation reports as required by A.I.D./W or as agreed upon between the USAID or Diplomatic Post and the cooperating sponsor and approved by A.I.D./W. The following is a list of the principal types of reports that are to be submitted:

(1) Periodic summary reports showing receipt, distribution, and inventory of commodities and proposed schedules of shipments or call forwards.

(2) In the case of Title II sales monetization agreements, e.g. in accordance with Public Law 480, section 206 or section 207, the cooperating sponsor, whether governmental or nongovernmental, is directly responsible for reporting on programs involving the use of funds for purposes specified in the agreement. See § 211.5(j).

(3) Reports relating to progress and problems in the implementation of the program, and inspection reports, as may be required from time to time by A.I.D./W or as may be agreed upon between the USAID or Diplomatic Post and the cooperating sponsor and approved by A.I.D./W.

(4) Reports of all comprehensive internal reviews prepared in accordance with § 211.5(c), shall be submitted to the USAID or Diplomatic Post for review as soon as completed and in sufficient detail to enable the USAID or Diplomatic Post to assess and to make recommendations as to the ability of the cooperating sponsors to effectively plan, manage, control and evaluate the Food for Peace programs under their administration.

(5) Emergency Programs. At the time that an emergency program under Public Law 480, Title II is initiated, whether on a governmental or nongovernmental basis, the USAID or Diplomatic Post should

(i) Make a determination regarding the ability of the cooperating sponsor to perform the record-keeping required by this § 211.10, and

(ii) in those instances in which those specific record-keeping requirements cannot be followed, due to emergency circumstances, specify exactly which essential information will be recorded in order to account fully for Title II commodities and monetized proceeds.

(6) Reports accounting for the generation and use of program income.

(c) *Inspection and audit.* Cooperating sponsors shall cooperate with and give reasonable assistance to U.S. Government representatives to enable them at any reasonable time to examine activities and records of the cooperating sponsor, recipient agencies, processors, or others, pertaining to the receipt, storage, distribution, processing, repackaging, sale and use of commodities by recipients; to inspect commodities in storage, or the facilities used in the handling or storage of commodities; to inspect and audit books and records, including financial books and records and reports pertaining to storage, transportation, processing, repackaging, distribution, sale and use of commodities and pertaining to the deposit and use of any monetized proceeds and program income; to review the overall effectiveness of the program as it relates to the objectives set forth in the Food for Peace Program Agreement; and to examine or audit the procedure and methods used in carrying out the requirements of this Regulation. Inspections and audits of Title II emergency programs will take into account the circumstances under which such programs are carried out.

§ 211.11 Termination of program.

(a) *Termination or Suspension by A.I.D.* All or any part of the assistance provided under the program, including commodities in transit, may be terminated or suspended by A.I.D. at its discretion if the cooperating sponsor fails to comply with the provisions of the Food for Peace Program Agreement, or of this Regulation, or if it is determined by A.I.D. that the continuation of such assistance is no longer necessary or desirable. Under such circumstances title to commodities which have been transferred to the cooperating sponsor, or monetized proceeds, program income and real or personal property procured with monetized proceeds or program income shall at the written request of the USAID or Diplomatic Post, or A.I.D./W, be transferred to the U.S. Government by the cooperating sponsor. Any then excess commodities on hand at the time the program is terminated shall be disposed of in accordance with § 211.5(l and m) or as otherwise instructed by the USAID or Diplomatic Post. If it is determined that any commodity authorized to be supplied under the Food for Peace Program Agreement is no longer available for Food for Peace programs, such authorization shall terminate with respect to any commodities which, as of the date of such determination have not been delivered f.o.b. or f.a.s. vessel, provided that every effort will be made to give adequate advance notice to protect cooperating sponsors against unnecessarily booking vessels.

(b) *Other.* Upon expiration of the approved program under circumstances other than those described in paragraph (a) of this section, the cooperating sponsor shall deposit with the U.S. Disbursing Officer, American Embassy, with instructions to credit the deposit to CCC Account No. 20FT401, any remaining monetized proceeds or program income, or the cooperating sponsor shall obtain A.I.D.'s approval for the use of such monetized proceeds or program income, or real or personal property procured with such proceeds or income, for purposes consistent with those authorized for support from A.I.D.

§ 211.12 Waiver and amendment authority.

The Assistant Administrator for Food for Peace and Voluntary Assistance, A.I.D., may waive, withdraw, or amend, at any time, any or all of the provisions of this part 211 (Regulation 11) if such provision is not statutory and it is determined to be in the best interest of the U.S. Government to do so. Any cooperating sponsor which has failed to comply with the provisions of this part or any instructions or procedures issued in connection herewith, or any agreements entered into pursuant hereto may at the discretion of A.I.D. be suspended or disqualified from further participation in any distribution program. Reinstatement may be made at the option of A.I.D. Disqualification shall not prevent A.I.D. from taking other action through other available means when considered necessary.

Appendix I—Legislation

The Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) implemented by the Regulation in this part (as of the date of issuance of this part) includes legislation pertaining to Public Law 480, Title II activities as follows:[1]

Title II Legislation

(1) Section 2(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides that in furnishing food aid, the President shall—

"relate United States assistance to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities."

(2) Section 201 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"(a) The President is authorized to determine requirements and furnish agricultural commodities on behalf of the people of the United States of America, to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. The Commodity Credit Corporation shall make available to the President such agricultural commodities determined to be available under section 401 as he may request.

(b) The minimum quantity of agricultural commodities distributed under this title for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, shall be 1,900,000 metric tons, of which not less than 1,425,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies, cooperatives, and the World Food Program; unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this title.

(c)(1) Except as provided in paragraph (2), in distributing agricultural commodities under this title, the President shall—

(A) Consider—

(i) The nutritional assistance to recipients and benefits to the United States that would result from distributing such commodities in the form of processed and protein-fortified products, including processed milk, plant protein products, and fruit, nut, and vegetable products;

(ii) The nutritional needs of the proposed recipients of the commodities;

(iii) The cost effectiveness of providing such commodities, for purposes of selecting commodities for distribution under nonemergency programs; and

(iv) The purposes of this title; and

(B) ensure that at least 75 percent of the quantity of agricultural commodities required to be distributed each fiscal year under subsection (b) for nonemergency programs be in the form of processed or fortified products or bagged commodities.

(2) The President may waive the requirement under paragraph (1)(B) or make available a smaller percentage of fortified or processed food than required under paragraph (1)(B) during any fiscal year in which the President determines that the requirements of the programs established

[1] Each statutory reference is copied verbatim.

under this title will not be best served by the distribution of fortified or processed food in the amounts required under paragraph (1)(B)."

(3) Section 202 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"(a) The President may furnish commodities for the purposes set forth in section 201 through such friendly governments and such agencies, private or public, including intergovernmental organizations such as the World Food Program and other multilateral organizations in such manner and upon such terms and conditions as he deems appropriate. Such commodities may be furnished for direct distribution, sale, barter, or other appropriate disposition in carrying out the purposes set forth in section 201. The President shall, to the extent practicable, utilize nonprofit voluntary agencies or cooperatives registered with, and approved by the Agency for International Development. If no United States nonprofit voluntary agency registered with and approved by the Agency for International Development is available, the President may utilize a foreign nonprofit voluntary agency which is registered with and approved by the Agency for International Development. Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate markings on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. Except in the case of emergency, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made.

(b)(1) Assistance to needy persons under this title shall be directed, insofar as practicable, toward community and other self-help activities designed to alleviate the causes of need for such assistance.

(2) In order to assure that food commodities made available under this title are used effectively and in the areas of greatest need, entities through which such commodities are distributed shall be encouraged to work with indigenous institutions and employ indigenous workers, to the extent feasible, to assess nutritional and other needs of beneficiary groups, help these groups design and carry out mutually acceptable projects, recommend ways of making food assistance available that are most appropriate for each local setting, supervise food distribution, and regularly evaluate the effectiveness of each project.

(3) In distributing food commodities under this title, priority shall be given, to the extent feasible, to those who are suffering from malnutrition by using means such as (A) giving priority within food programs for preschool children to malnourished children, and (B) giving priority to poorest regions of countries.

(4) In the case of commodities distributed under this title by nonprofit voluntary agencies, consideration shall be given to nutritional and development objectives as established by those agencies in light of their assessment of the needs of the people assisted.

(c)(1) In agreements with nonprofit voluntary agencies and cooperatives for nonemergency assistance under this title, the President is encouraged, if requested by the nonprofit voluntary agency or cooperative, to approve multiyear agreements to make agricultural commodities available for distribution by that agency or cooperative. Such agreement shall be subject to the availability each fiscal year of the necessary appropriations and agricultural commodities.

(2) Paragraph (1) does not apply to an agreement which the President determines should be limited to a single year because of the past performance of the nonprofit voluntary agency or cooperative or because the agreement involves a new program of assistance.

(3) In carrying out a multiyear agreement pursuant to this subsection, a nonprofit voluntary agency or cooperative shall not be required to obtain annual approval from the United States Government in order to continue its assistance program pursuant to the agreement, unless exceptional and unforeseen circumstances have occurred which the President determines require such approval."

(4) Section 203 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this title costs for packaging, enrichment, preservation, and fortification; processing, transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in United States ports; ocean freight charges from United States ports to designated ports of entry abroad; transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports; in the case of commodities for urgent and extraordinary relief requirements, including pre-positioned commodities, transportation costs from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto."

(5) Section 204 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"Programs of assistance shall not be undertaken under this title during any fiscal year which call for an appropriation of more than $1,000,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such mprograms (including the Corporation's investment in commodities made available) plus any amount by which programs of assistance undertaken under this title in the preceding fiscal year have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than were authorized for such purpose during such preceding year. The President may waive the limitation in the preceding sentence if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian needs. In addition to other funds available for such purposes under any other act, funds made available under this title may be used in an amount not exceeding $7,500,000 annually to purchase foreign currencies accruing under title I of this Act in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance of any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this title are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance: Provided, however, that such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources."

(6) Section 206 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"(a) Except to meet famine or other urgent or extraordinary relief requirements, or for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives, no assistance under this title shall be provided under an agreement permitting generation of foreign currency proceeds unless—

(1) The country receiving the assistance is undertaking self-help measures in accordance with Section 109 of this Act,

(2) The specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and

(3) Such agreement provides that the currencies will be used for

(A) Alleviating the causes of the need for the assistance in accordance with the purposes and policies specified in section 103 of the Foreign Assistance Act of 1961

(B) Programs and projects to increase the effectiveness of food distribution and increase the availability of food commodities provided under this title to the neediest individuals in recipient countries. The President shall include information on currencies used in accordance with this section in the reports required under section 408 of this Act and section 657 of the Foreign Assistance Act of 1961, or

(C) Health programs and projects, including immunization of children.

(b) Not later than February 15, 1989, and annually thereafter, the President shall report to Congress on sales and barter, and use of foreign currency proceeds, under this section and section 207 during the preceding fiscal year. Such report shall include information on—

(1) The quantity of commodities furnished for such sale or barter;

(2) The amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in the preceding fiscal year;

(3) How such funds and services were used;

(4) The amount of foreign currency proceeds that were used under agreements under this section and section 207 in the preceding fiscal year, and the percentage of the quantity of all commodities and products furnished under this section and section 207 in such fiscal year such use represented;

(5) The President's best estimate of the amount of foreign currency proceeds that will be used, under agreements under this section and section 207, in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the President estimates will be furnished under this section and section 207 in each such fiscal year;

(6) the effectiveness of such sales, barter, and use during the preceding fiscal year in facilitating the distribution of commodities and products under this section and section 207;

(7) The extent to which such sales, barter, or uses—

(A) Displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made;

(B) Affect usual marketings of the United States;

(C) Disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries; or

(D) Discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this title; and

(8) The President's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under this section and section 207."

(7) Section 207 of the Agricultural Trade Development and Assistance Act of 1954, as amended provides as follows:

"(a) A nonprofit voluntary agency or cooperative requesting a nonemergency food assistance agreement under this title shall include in such request a description of the intended uses of any foreign currency proceeds that would be generated with the commodities provided under the agreement.

(b) Such agreements shall provide, in the aggregate for each fiscal year, for the use of foreign currency proceeds under this subsection in an amount that is not less than 10 percent of the aggregate value of the commodities distributed under nonemergency programs under this title for such fiscal year.

(c) Foreign currencies generated from any partial or full sales or barter of commodities by a nonprofit voluntary agency or cooperative shall be used (1) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this title; and (2) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities."

(8) Section 208 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"(a) Response.—If a proposal to make agricultural commodities available under this title is submitted by a nonprofit voluntary agency or cooperative with the concurrence of the appropriate United States Government field mission or if a proposal to make agricultural commodities available to a nonprofit voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, DC. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

(b) Notice and Comment.—Not later than 30 days before the issuance of a final guideline to carry out this title, the President shall (1) provide notice of the proposed guideline to nonprofit voluntary agencies and cooperatives that participate in programs under this title, and other interested persons, that the proposed guideline is available for review and comment; (2) make the proposed guideline available, on request, to the agencies, cooperatives and others; and (3) take any comments received into consideration before the issuance of the final guideline.

(c) Deadline for Submission of Commodity Orders.—Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

(9) Section 401 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"(a) After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this Act, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports and adequate carry-over, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this Act, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carry-over, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity, unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry out urgent humanitarian purposes of this Act.

(b) No agricultural commodity may be financed or otherwise made available under the authority of this Act except upon determination by the Secretary of Agriculture that (1) adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country."

(10) Section 402 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides, in part as follows:

"The term "agricultural commodity" as used in this Act shall include any agricultural commodity produced in the United States (including fish, without regard to whether such fish are harvested in aquaculture operations) or product thereof produced in the United States: Provided, however, That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of title II of this Act, tobacco or products thereof."

(11) Section 404 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"(a) The programs of assistance conducted under this Act, and the types and quantities of agricultural commodities to be made available, shall be directed in the national interest toward the attainment of humanitarian and developmental objectives as well as the development and expansion of United States and recipient country agricultural comodity markets. To the maximum extent possible, either the commodities themselves shall be used to improve the economic and nutritional status of the poor through effective and sustainable programs, or any proceeds generated from the sales of agricultural commodities shall be used to promote policies and programs that benefit the poor.

(b) Country assessments shall be carried out whenever necessary in order to determine the types and quantities of agricultural commodities needed, the conditions under which commodities should be provided and distributed, the relationship between United States food assistance and other development resources, the development plans of that country, the most suitable timing for commodity deliveries, the rate at which food assistance levels can be effectively used to meet nutritional and developmental needs, and the country's potential as a new or expanded market for both United States agricultural commodities and recipient country foodstuffs.

(12) Section 405 of the Agricultural Trade and Development Assistance Act of 1954, as amended, provides as follows:

"The authority and funds provided by this Act shall be utilized in a manner that will assist friendly countries that are determined to help themselves toward a greater degree of self-reliance in providing enough food to meet the needs of their people and in resolving their problems relative to population growth."

Appendix II—Operational Plan

A. General Outline of Operational Plans for Title II Activities

In addition to any other requirement of law or regulation, the operational plan will

include information outlined below to the extent it is applicable to the specific activity.

1. Program Goals

Describe program goals and criteria for measuring progress toward reaching the goals. Each program should be designed to achieve measurable objectives within a specified period of time.

2. Program Description

a. Describe the characteristics, extent and severity of problems that the program will address.

b. Provide a clear concise statement of specific objectives for each program and of criteria for measuring progress towards reaching the objectives. If there are several objectives, indicate priorities.

c. Describe the target population by program, including economic/nutrition-related characteristics, sufficiently to permit a determination of recipient eligibility for Title II commodities. Describe the educational and employment characteristics of the target group, if relevant to program objectives; the rationale for selection of the target group, the rationale for the selection of the geographical areas where programs will be carried out; the calculation of coverage and the percent of total target population reached.

d. Describe the intervention including:

(1) Ration composition. A description of rations, rationale for size and composition, assessment of effectiveness (dilution, sharing, acceptance).

(2) Complementary program components and inputs. Identify existing or potential complementary program components, i.e., education, growth monitoring, training, etc., that are necessary to achieve program impact, including determination of financial costs and sources of funding.

(3) Monetization of commodities. Describe to whom the food will be sold; the sales price (which shall not be less than the value of the food commodities f.a.s. or f.o.b.), and arrangements for deposit of the monetization proceeds in a special (segregated), interest bearing account, pending use of the proceeds plus interest for the program.

(4) Intervention strategy. Describe how the food, monetization proceeds, program income and other program components will address the problems. Indicate the recipient agencies to which commodities, monetized proceeds or program income will be transferred, and identify those recipient agencies which will not be required to execute Recipient Agency Agreements; and provide a brief explanation of the reasons.

(5) Linkages with other development activities, such as health or agricultural extension services. Describe specific areas of collaboration relative to program purposes.

(6) Monitoring and Evaluation. Include a description of the evaluation plan, including information to be collected for purposes of assessing program operations and impact. Describe the monitoring system for collection, analysis and utilization of information. Include a schedule for carrying out the evaluation as well as a plan for conducting internal reviews (Regulation 11, § 211.5(c)).

(7) The Operational Plan should cover enough time for a program to become fully operational and to permit evaluation of its effectiveness, including specific measurement of progress in achieving the stated program goals. Normally this will be a multi-year time frame, such as three to five years. Plans for and considerations involved in phasing-out U.S.G. support, and any phasing-over to non-U.S.G. support, should be discussed.

3. Program Funding

Details of host government, cooperating sponsor and other non-USG support for the proposed program, with specific budgetary information on how these funds are to be used (e.g. complementary inputs, transport, administration). Where relevant, discussion of arrangements which will be made covering voluntary contributions.

4. Publicity

Statement as to how the requirements for public recognition, container markings, and use of funds set forth in Regulation 11, Sections 211.5(g), (h) and (i) and in 211.6 (a) and (b), will be met.

5. Logistics

A logistics plan that demonstrates the adequacy and availability in recipient country of port facilities, transportation and storage facilities to handle the flow of commodities to recipients to prevent spoilage or waste. A further affirmation must be made at the time of exportation of the commodity from the United States.

6. Disincentives

Sufficient information concerning the plan of distribution and the target group of recipients so that a determination can be made as to whether the proposed food distribution would result in substantial disincentive to domestic food production.

7. Accountability

Description of the method to be used to supervise, monitor, and account for the distribution or sale of commodities and the use of monetized proceeds and program income.

8. Import Duty

Information to show approval of foreign government to import the donated commodities duty free.

9. Voluntary Agency Regular Programs

An Operational Plan is required for all regular, i.e. non-emergency, Title II nongovernmental cooperating sponsor programs as part of their program submission, along with the Annual Estimate of Requirements (AER), to the USAID or Diplomatic Post and A.I.D./W. When new multi-year operational plans are required, they should be prepared and submitted in advance of the year in which they are to begin, in order to permit adequate time for substantive review and approval. In any event, nongovernmental cooperating sponsor operational plans should be submitted to A.I.D./W no later than the Mission Action Plan covering the following fiscal year's program. Once an operational plan has been approved, only an updating will be required on an annual basis, unless there has been a significant change from the approved plan's program directives, methodology, design or magnitudes. Updates should be submitted each year for review with the AERs.

B. Operational Plans for Emergency Programs

The response to emergency situations using Title II resources does not usually permit the same degree of detail and certainty of analysis that is expected in planning Title II non-emergency programs. However, operational plans are required for all nongovernmental cooperating sponsors' emergency programs, along with the AER. An operational plan for an emergency program must cover the same basic elements, set forth above, as for a nonemergency program. Thus, all of the above basic issues set forth in the operational plan format must be addressed when proposing Title II emergency programs as well as regular nonemergency programs.

C. USAID/Diplomatic Post Responsibilities

A USAID or Diplomatic Post is expected to comment on the substance and adequacy of a nongovernmental cooperating sponsor's operational plans when submitted to A.I.D./W along with a program request, and to address the plan's relationship to and consistency with the Mission's Country Development Strategy Statement.

D. Required Approval for Program Change

Cooperating sponsors agree not to deviate from the program as described in the operational plan and other program documents approved by A.I.D., without the prior written approval of A.I.D.

E. Emergency Assistance Program Requests

Any cooperating sponsor (governmental or nongovernmental) may initiate an emergency assistance proposal under Public Law 480, Title II. Requests are received by a USAID or Diplomatic Post and reviewed and approved before forwarding to A.I.D./W with appropriate recommendations.

a. Nongovernmental emergency program requests can be cabled by the USAID or Diplomatic Post for A.I.D./W review based on information provided and using procedures established for regular programs per Regulation 11, § 211.5(a): AER and Operational Plan.

b. A foreign government or international organization (other than World Food Program) emergency request normally requires more Mission involvement in program design and management. However, as in the case of nongovernmental programs, the approval will be based on a cabled program summary based on the program plan outlined in (2) above. On approval, A.I.D./W will prepare a Transfer Authorization (TA) to be signed by the recipient government specifying terms of the program and reporting requirements. Additional guidance in preparing government-to-government or international organizations emergency requests is in Chapter 9 and Exhibit A of A.I.D. Handbook 9. The TA serves as (1) the Food for Peace Agreement between the U.S. Government and the cooperating sponsor, (2) the project authorization document, and (3) the authority for the CCC to ship commodities. (Under Public Law 480, section 208(c), not later than 15 days after receipt of a

call forward from a field mission for commodities, the order shall be transmitted to the CCC.]

14. Local Currency Programs (Public Law 480, Title II Sections 204, 206, and 207)

Detailed guidance for preparing, approving, implementing and administering these programs, see chapters 6, 7, and 11 of A.I.D. Handbook 9.

Dated: May 31, 1990.

Philip L. Christenson,

Assistant Administrator, Agency for International Development.

[FR Doc. 90-13311 Filed 6-8-90; 8:45 am]

BILLING CODE 6116-01-M

federal register

Monday
June 11, 1990

Part III

Environmental Protection Agency

40 CFR Part 80

Volatility Regulations for Gasoline and Alcohol Blends Sold in Calendar Years 1992 and Beyond; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS-FRL-3776-4]

Volatility Regulations for Gasoline and Alcohol Blends Sold in Calendar Years 1992 and Beyond

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: Today's action promulgates Phase II of a two-phase nationwide reduction in summertime commercial gasoline volatility. Depending on the state and the month, gasoline Reid Vapor Pressure (RVP) may not exceed 9.0 pounds per square inch (psi) or 7.8 psi beginning in May of 1992.

This action will add significantly to the reduction in emissions of volatile organic compounds (VOC) achieved by Phase I of the program, implemented in 1989. These gasoline-related emissions are currently a major contributor to the nation's serious ground-level ozone problem which is responsible for harm to human health and to the public welfare. The full benefits of this program will begin immediately upon implementation in 1992.

To achieve these benefits, the RVP control program promulgated here sets gasoline RVP standards that are more stringent than those in the Phase I program implemented in 1989. In addition, EPA has improved the system by which states are assigned a standard for each summer month, combining a better understanding of climate factors with measures to simplify enforcement and compliance. The overall enforcement mechanism and regulations for sampling, testing, and liability remain unchanged from the Phase I program.

These regulations also make permanent the temporary 1.0 psi RVP allowance provided in the Phase I program for gasoline containing 9 to 10 percent ethanol; no RVP allowance is available for methanol blends.

EFFECTIVE DATE: This regulation becomes effective on July 11, 1990.

ADDRESSES: Materials relevant to this rulemaking have been placed in Docket No. A-85-21 by EPA. Public Docket No. A-84-07, established in support of EPA's assessment of air pollution regulatory strategies for the gasoline marketing industry, also contains considerable background information and has been incorporated into A-85-21. The dockets are located at: Air Docket Section (LE-130), U.S. Environmental Protection Agency, First Floor, Waterside Mall, room M-1500, 401 M Street SW., Washington, DC 20460 (Telephone: 202/382-7548), and may be inspected between 8:30 a.m. and noon and 1:30 p.m. and 3:30 p.m. Monday through Friday. EPA may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Tad Wysor, Standards Development and Support Branch, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668-4332.

SUPPLEMENTARY INFORMATION:

I. Introduction

The action promulgated today completes the regulatory action EPA proposed in 1987 to reduce summertime gasoline volatility in two phases (52 FR 31274, August 19, 1987). Each phase represents a very significant step in EPA's overall policy of reducing ozone levels in urban areas.

As described in this preamble, EPA believes that the environmental benefits of this program are significantly larger than any other existing or planned ozone-control program. In addition, the full benefits to areas experiencing high ozone levels are realized immediately upon implementation (1989 for Phase I and 1992 for this Phase II program). The result should be marked reductions in urban ozone levels. Yet, relative to the large reductions, the costs to the nation are very reasonable, especially when compared to other potential control measures.

This preamble reviews the background of this rulemaking and the need for ozone control and then provides a description of today's phase II action. Also included in the preamble are summaries of major comments and EPA's responses, as well as a summary of the results of our final analyses of environmental and economic impacts and how these compare to other ozone control programs. A key aspect of the final analyses described here is the process EPA has followed in establishing summertime RVP standards by month for each of the 48 contiguous states, and how these standards relate to different RVP levels states may desire.

Except where noted, complete detailed analyses of issues raised during the rulemaking are found in the Final Regulatory Impact Analysis and Summary and Analysis of Comments: Phase II Gasoline Volatility Control Program. This document (hereafter, "Phase II Final RIA") is available in Docket A-85-21 (see "Addresses," above); a limited number of individual copies may also be available through Tad Wysor (see "For Other Information," above).

II. Background

As mentioned earlier, this is the second phase of a two-phase program proposed in a 1987 Notice of Proposed Rulemaking, or NPRM (52 FR 31274, August 19, 1987). EPA proposed Phase I of the program to achieve VOC reductions available immediately, and Phase II to achieve further reductions available with the installation of new refining capacity.

Since the proposal, several related events have occurred. On October 27-29, 1987, EPA held a public hearing on the proposed volatility program (and also on a related refueling emission control proposal) and heard testimony from about 40 parties. The Agency accepted written comments until February 11, 1988 and received a large number and wide diversity of comments.

Certain concerns about industry design trends for evaporative and refueling control systems prompted EPA to hold a public workshop to highlight those concerns and to discuss potential modifications to EPA's test procedures which would resolve these concerns. EPA has now proposed vehicle-related evaporative emissions requirements in a separate rulemaking (55 FR 1914, January 19, 1990).

EPA promulgated the final rule for Phase I last year (54 FR 11868, March 22, 1989). Certain corrections were made in a subsequent notice (54 FR 27016, June 27, 1989). In addition, EPA held a public workshop on April 28, 1989 to answer questions which had been raised related to implementation and enforcement of the Phase I program. (An updated question and answer document is available in Docket A-85-21, Document No. IV-A-10.) EPA later revised the Phase I program slightly by changing the August RVP standard for northern New Mexico (54 FR 33218, August 14, 1989).

In related actions, EPA approved in early 1989 requests by several Northeastern states (Massachusetts, Connecticut, Rhode Island, New Jersey, and New York) to enforce more stringent volatility control programs beginning in the summer of 1989 (54 FR 19173, May 4, 1989; 54 FR 23650, June 2, 1989; 52 FR 25572, June 16, 1989; and 54 FR 26030, June 21, 1989). In addition, EPA has also proposed approval for a more stringent volatility control program for the Dallas-Fort Worth (Texas) Consolidated Metropolitan Statistical Area, to begin in the summer of 1990 (54 FR 18005, April 30, 1990). Finally, in

response to requests from various parties in Texas which were supported by the Governor in a letter to EPA, EPA may propose to change the Phase I RVP standard for all of eastern Texas from 9.5 to 9.0 RVP, the current standard in western Texas.

III. Environmental Need for Control

In the volatility NPRM, EPA described the human health impact of exposure to high ozone concentrations and the widespread nature of nonattainment of the current National Ambient Air Quality Standard (NAAQS) for ozone. We also reviewed the evidence of ozone's effect on forests, crops, and materials (52 FR 31275).

EPA's conclusions were that elevated levels of ozone are damaging to the public health and welfare, that levels commonly reached are high enough to cause such damage, and that occurrence of these high levels is widespread. Comments challenging these conclusions provided little new data or analysis to contradict what we believe to be a strong technical basis for control. In addition, VOC is also a precursor to formation of particulate matter, which can result in negative health effects, soiling and reduced visibility. Further, VOC can itself directly harm human health, cause odors, and reduce visibility.

Since the time of the proposal, EPA's concern about ozone exposure has not diminished. Preliminary data for the record rainy year of 1989 shows that exceedance of the ozone standard was comparable to the relatively low-ozone experience of 1986; however, exceedance was more widespread in the 1986–1988 period (the most recent period for which final data are available) than during any earlier period. This experience, as well as the VOC and particulate matter effects mentioned above, reinforces the need for EPA and states to pursue as much VOC reduction as reasonably possible, particularly during the summer months when ozone is most commonly a problem. Current debate on Clean Air Act revisions indicate broad agreement that a high priority be placed on VOC control. The gasoline volatility controls promulgated today are consistent with these goals.

IV. Description of Today's Action

A. Gasoline RVP Control Provisions

This second and final stage of EPA's proposed RVP control program is very similar in most respects to the existing Phase I program. New lower standards are established for each of the 48 contiguous states for each of the months of May through September.

In order for the program to achieve necessary reductions during ozone problem months, an improved analysis concludes that the beginning and end dates of the program need not change from Phase I. Except for retail stations and other end-users (i.e., wholesale purchaser-consumers), enforcement begins on May 1 and continues through September 15. Enforcement is delayed until June 1 at the beginning of the control season for end-users to prevent outlets with slower turnover from needing advance supplies of RVP controlled gasoline from suppliers over which they often have little control.

The liability, sampling, and testing provisions of the Phase I regulation are unchanged. However, EPA expects to issue a separate Notice of Proposed Rulemaking which will propose adopting of different or additional RVP testing methods and equipment. These changes will be proposed to be implemented in 1991, and if implemented they also will remain in effect for the Phase II.

EPA is implementing the proposed volatility levels of 9.0 or 7.8 RVP, depending on the state and the month. These numerical levels represent proportional reductions from pre-control RVP levels and updated analysis has reinforced the appropriateness of these levels (see chapter 2 of the Final RIA). The system EPA has established for setting the state-by-state and month-by-month standards, however, differs somewhat from the proposed system and that in the Phase I final rule.

One option EPA considered in establishing which states should be designated which of the three RVP standards was an analytical, climate-based approach. In the proposal, EPA relied on the historic voluntary classification system established by the American Society for Testing and Materials (ASTM) to select which areas should get lower RVP fuel due to higher temperatures and elevations. The goal of this approach was to achieve equivalent per-vehicle emissions in all areas of the country during each month of the program. EPA has maintained that goal but has performed a detailed new analysis of variation in climate from state to state and month to month which supersedes the ASTM system for our purposes. In general, EPA noted actual climatic conditions (temperature and elevation) at each ozone monitor nationwide on high-ozone days. An RVP level was then established for each state-month which would result in vehicle emissions on such days equivalent to vehicle emissions in certain midwestern and northeastern states when 9.0 RVP fuel is used (Class "C" states in the Phase I program). Thus, EPA analytically derived a pattern of standards which account for the effects of higher temperatures and elevations that occur in some areas of the country and for temperature variations from month to month. The detailed results of the climate-based analysis are contained in Tables 2–2 and 2–3 in chapter 2 of the Final RIA.

One characteristic of such a climate-based approach is that standards would vary significantly from state to state and month to month. This kind of variation makes enforcement of RVP standards more difficult at the refinery and pipeline level because there can be less certainty about where and when the gasoline will ultimately be used. According to the gasoline marketing industry, assuring compliance has also been more difficult during the Phase I program for the same reason (e.g., distributors which serve areas which now have different RVP requirements).

EPA has developed a final set of RVP standards which incorporates aspects of the climate-based approach yet reduces the occurrence of month-to-month and state-to-state variations. The goal was to develop a simpler option which would not sacrifice environmental benefit. In the resulting system of standards, all states will receive 9.0 RVP gasoline during May. In addition, all states will have an unchanging standard from June through September 15. Thus, many states will have a single standard of 9.0 RVP throughout the control season while the remainder will change no more than once after the beginning of the control season. In addition, states are generally in geographic proximity to other states with identical standards.

By comparison, in the Phase I program standards in 6 states change once and in 14 states change twice after the beginning of the season. Similarly in a pure climate-based approach, standards in 2 states would change once, in 19 states would change twice, in 1 state would change three times, and in one state would change four times after the beginning of the season.

To ensure control during the month of July (when ozone violations are most numerous), the selection of the June–September standard for each state is generally based on the July result of the climate-based analysis described above (and in the Final RIA), except in 7 states. For 5 states—Nevada, Colorado, New Mexico, Nebraska, and Iowa—the final standard, while reducing RVP from the Phase I program, is one step less stringent than the July "climate based" result (although in no case does the final standard exceed 9.0 RVP). These 5 states currently have no ozone

nonattainment area, EPA nevertheless believes some control is appropriate in these states (as well as in several other states without nonattainment areas) in order to improve the geographic simplicity of the overall program for enforcement and compliance. In addition there is likely to be a reduction in ozone formation (and direct effects of VOC) in these areas which will help maintain attainment into the future as VOC growth occurs.

For the states of Utah and Arizona, the climate based analysis would have indicated that 7.0 RVP would be the appropriate standard. However, EPA is aware that supplying 7.0 RVP fuel to these two states alone may present difficulties due to the limited area and population involved as well as the unique supply characteristics of these two states (Phoenix is largely supplied from California, and Utah refineries are relatively small and also supply surrounding states). EPA believes it is appropriate to assign these two states a standard of 7.8 RVP for June through September 15, especially since, as described in the next section, states can request that a lower standard be substituted.

This overall system of RVP standards is more stringent in some states in some months (particularly June and September) than would be a system based directly on the climate-based analysis. This is true for 10 states in June and 17 states during the two weeks of September when the program is in force. The additional control in some months will be useful to some states in achieving and maintaining attainment; the additional cost at the refinery level should not be significant, to the industry or to consumers, particularly since refiners and distributors have expressed a preference for a program such as this with simpler (and presumably less costly) compliance. (See Sections A.1 (Environmental Impact) and A.2 (Economic Impact) below.) As discussed in the next section, states may initiate a change in a standard if unforseen burdens are created by this program.

As discussed above, the final system of RVP standards also results in standards less stringent than the climate based results in a few states. In addition to the five attainment states listed above, Arizona's standards for May (9.0) and for June-September (7.8) and Utah's standard for June-August (7.8) are less stringent than the climate-based results for those months. Overall, however, the system promulgated today will result in more emission reductions than a pure climate-based approach.

Unlike the Phase I system of RVP standards (and the existing voluntary ASTM system upon which Phase I was based) the Phase II system does not require gasolines of more than one RVP within a state during any month. This further simplifies the program and reduces the likelihood of "border issues" (such as when distributors market in an area with a different RVP standard than that of their supplier).

The Phase II program does not apply to Hawaii, Alaska, or U.S. territories, continuing the approach of the proposal and Phase I. These areas have separate fuel supply networks and no current or expected ozone attainment problems.

Finally, EPA will adopt for the Phase II program a policy of taking enforcement action only when EPA measures the RVP at more than 0.3 psi RVP greater than the applicable standard, provided that the responsible party measured the RVP of the gasoline (using promulgated sampling and testing procedures) at or below the applicable standard. This policy provides an allowance for variability in the RVP test methods. If a more accurate testing procedure is promulgated or if additional information indicates that a lower enforcement tolerance is appropriate, the Agency reserves the right to modify this policy.

1. State Requests for Revised Standards

Because EPA is adopting a system of standards somewhat simplified from the alternative ASTM, Phase I, and climate-based approaches, the Agency expects that most refiners, distributors, and retailers of gasoline will be able to supply and market their fuels efficiently. However, EPA's experience since the implementation of Phase I indicates that is is possible that localized impacts will arise (*e.g.*, unusual difficulty in obtaining complying product, or ozone conditions believed to warrant greater (or reduced) control relative to other areas). The Agency believes, however, that resolving specific localized issues is beyond the scope of this national rulemaking.

Instead, EPA will rely on states to initiate minor changes to the EPA program which they believe will enhance local air quality and/or increase the economic efficiency of the program. Such changes could consist of a different standard for some month or months, or a different standard for some geographic subdivision of the state.

If states desire the EPA program to be adjusted to respond to localized issues, one or two options are available, depending on the nature of the proposed change. For cases where a state desires to increase the stringency of that state's standard, it has two options. First, the existing Clean Air Act includes provisions for states to adopt and enforce a program more stringent than EPA's. Section 211(c)(4) of the current Act provides for states to request such a program as a revision to their State Implementation Plan (SIP) for ozone. EPA can approve such a program if we find the program necessary to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. EPA did this in approving several requests from northeast states in 1989, permitting them to adopt and enforce more stringent RVP control programs (See Section II, "Background," above).

It is also possible that a state may identify the existence of localized impacts for which it may be appropriate to make minor changes in the EPA program to be more or less stringent in some month or months. In such a case, a state may petition the Administrator to amend the applicable standard for that state. As with any new information identifying unintended consequences resulting from a regulation, EPA will need to consider such changes through the rulemaking process. Because of the broad potential effects and diversity of interested parties in matters related to RVP control, a state should make any request to EPA for revised standards through the governor (or the governor's designee). In such a request, EPA would look for documentation of the local economic impact and, in the case of a request for a less stringent standard, for an indication that sufficient alternative programs are available to achieve attainment and maintenance of the ozone NAAQS. EPA will review the state's information and will issue a Federal Register notice proposing to adopt the change and soliciting public comments if the foregoing elements are present.

EPA would consider any comments received before taking final action on the state's petition. The Agency would limit any such a change to one volatility level (*e.g.*, 7.8 to 7.0 or 9.0 RVP. EPA would not relax any standard beyond 9.0 RVP.

B. Alcohol Blend RVP Control Provisions

For alcohol blends, the Phase II program continues the Phase I provisions. (The issues involved are discussed further under Section V.B., "Alcohol Blend RVP Control," below.) For blends of gasoline with about 10 percent ethanol, or gasohol, EPA continues to provide a 1.0 psi RVP allowance so as not to require a special low-RVP blending gasoline. Methanol blends currently must use low-RVP blending gasoline; today's program

makes no change in this policy. No regulatory changes to the Phase I regulations are necessary to continue these policies.

V. Analysis of Economic and Environmental Impacts

EPA's analysis supporting this final rule represents extensive new work, updating and superseding the earlier analyses performed for the proposal and the Phase I final rule. The Phase II Final RIA describes in detail the issues involved, comments received, EPA's responses, and final results. The following sections highlight for gasoline RVP control the key comments and responses and review our final conclusions relating to environmental impact, economic impact, and how these compare to other ozone-control programs. This section also reviews the issues, comments, and response relating to alcohol blend RVP control.

A. Gasoline RVP Control

1. Environmental Impact

The projected environmental impact of Phase II volatility control is based on a new analysis of the effects of RVP control on per-vehicle emissions which, in turn, are translated into the effect on nonattainment area VOC levels. EPA then used the subsequent reduction in VOC levels from RVP controls to project future ozone nonattainment area status. Key comments on the environmental impact analysis contained in the NPRM and EPA responses to them follow.

Commenters challenged several aspects of EPA's analysis of vehicle emissions under the various RVP control scenarios which were analyzed. Most of these comments were focused on the MOBILE3.9 emissions model used in the NPRM and how it was used. The Final RIA which accompanies today's rule contains a more detailed response to these issues; however, most of the comments in effect have been addressed by the release of an updated and improved version of EPA's vehicle emissions model, MOBILE4.0. The MOBILE4.0 model incorporates many of the improvements made in MOBILE3.9 and also includes many new changes. The major changes made in MOBILE4.0 are that estimates of running losses are included, weathering (reduction of RVP over time through evaporation) is directly taken into account for all emissions (evaporative, exhaust, and running losses), and evaporative and exhaust emissions algorithms have been improved based on the experience of more vehicle testing.

MOBILE4.0 is used as the basis of the updated environmental impact analysis performed for this final rule. The model was run for each ozone nonattainment area based on 1986 to 1988 data using city-specific temperature and RVP levels and other city-specific information. Thus, EPA was able to project average per-vehicle emissions in grams per mile for each of the areas analyzed, for each vehicle class, for each scenario examined, and for the base and future projection years. The city-specific emission factors were used as input for the next step, which is to project the effect of RVP controls on total VOC inventories.

The current inventory projection analysis, as detailed in Chapter 3 of the Final RIA and highlighted here, is similar in most ways to the analysis contained in the Draft RIA supporting the proposal. This analysis uses the July RVPs which result from the climate-based state-by-state analysis described in section IV.A. above. As discussed earlier, the final system of standards will be more stringent than the climate-based results for some states in some months, perhaps doubling emission reductions in some states during those months. However, the emission reduction analysis, while very detailed in some respects, is only capable of distinguishing among programs which have different standards in July. Since July RVPs are identical for most states for both the climate based approach and the final system of standards, the emission reduction projections reported here and in Chapter 3 of the Final RIA are essentially valid for either approach.

Except for Arizona and Utah, as discussed above, all states where the final standards are less stringent than the climate-based results are currently in attainment; the final standards are consistently more stringent than the current Phase I standards in all of these states, including Arizona and Utah.

City-specific emissions data are used to develop total VOC emission estimates for each area, including both mobile and stationary sources, for each RVP level analyzed. A few commenters challenged details of the Draft RIA analysis; these comments were generally accommodated by improvements which we were able to make in the emissions inventory modeling methodology. In addition to modeling changes, EPA has updated the stationary source estimates based on more recent information. We also have removed the results for eight Northeast states from the projections (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York and New Jersey) because these states have either already begun summer RVP control to 9.0 psi (the level which EPA would have promulgated for them with today's rule) or receive such fuel because of the neighboring states' regulations. Therefore, EPA's analysis does not include emission benefits (or costs) for these states. Unlike the NPRM analysis, we now include California in our analysis because the RVP control level contained in today's rule (7.8 psi) goes lower than California's current summer RVP control level (9.0 psi).

To project the effect of RVP control on urban air quality, as expressed in the number of remaining nonattainment areas, EPA compared the city-specific VOC emissions inventories to estimates for each area of the reduction necessary to achieve attainment. The "necessary reductions" estimates are based on a version of the EKMA model and were developed by an EPA contractor to support comparisons among various Clean Air Act bills. Although a few commenters expressed concern about the accuracy of the EKMA model used in the air quality analysis, EPA believes that the use of the EKMA model is useful in estimating aggregate nationwide ozone impacts. (EPA uses emission reductions and not ozone levels as the basis for its regulatory decision making; thus any inaccuracy in the EKMA model has no direct impact on the Agency's policy regarding this final rule.) EPA's air quality analysis in Chapter 3 of the Final RIA addresses also the related issues of the reactivity of various VOC components and the effect of ethanol blends on emissions and air quality.

Last, EPA analyzed the effect of RVP controls on emissions of the cancer-causing gasoline component benzene, and the resulting health effects. Comments on the benzene analysis contained in the Draft RIA did not result in any changes to the analysis. For the Phase II Final RIA, EPA has based the emissions estimates on MOBILE4.0 and incorporated more recent ambient benzene level information into the analysis. Our conclusion remains that the RVP controls promulgated with today's rule will not increase nationwide cancer incidences due to benzene exposure.

On the basis of the analyses described above, EPA believes that the environmental benefit of this program, projected as very significant in the proposal, will in fact be even larger. On a per-vehicle basis, total light-duty vehicle hydrocarbon emissions in 1995 should decrease by approximately 0.77 grams per mile to about 1.96 grams per mile. Based on fleet-wide hydrocarbon reductions, Phase II volatility controls will result in a total non-Northeast VOC

reduction of about 1,315,000 tons per year or 710,000 tons per year in ozone nonattainment areas (these values are presented on an annual equivalent basis for comparison with year round control programs). These reductions represent about 14.4 percent of 1987 non-Northeast nonattainment area mobile source VOC emissions and about 6.7 percent of 1987 non-Northeast nonattainment area VOC emissions from all sources. These results show that the Phase II volatility control program offers greater VOC reductions than any other single program of which EPA currently is aware. Finally, the impact of Phase II volatility controls on urban air quality should be sufficient to bring approximately 32 of the 70 non-Northeast urban ozone nonattainment areas into compliance by 1995. Chapter 3 of the Final RIA contains more detailed results.

EPA also calculated the environmental impact of the current Phase I volatility control program using the updated methodology used for the Phase II analysis. Total non-Northeast emission reductions are projected to be 835,000 tons and non-Northeast nonattainment area emission reductions to be 452,000 tons in 1990 (annual equivalent basis). These reductions represent 4.2 percent of total 1987 non-Northeast nonattainment area emissions. Further details of these results are contained in the final RIA.

2. Economic Impact

The economic impact to society of RVP controls consists of several elements. There are increased costs to the refiners in producing a low-RVP gasoline which are offset by savings to vehicle drivers from the increased energy density of lower RVP gasoline (which results in greater fuel economy) and the recovery of current evaporative emissions. Gasoline RVP controls also have indirect economic impacts on butane sales and purchases and imports of oil and gasoline. In addition, EPA has also considered the potential impacts of volatility controls on vehicle driveability and fuel safety.

EPA has concluded that it will be feasible for the industry to comply with the standards promulgated today during the 1992 summer control period. Although the proposed program anticipated three to four years of available leadtime, EPA now believes that a shorter leadtime is appropriate.

While three or four years would allow most if not all refiners to thoroughly re-optimize their operations, about two years will be sufficient to produce complying product without serious economic impacts. EPA anticipates that for 1992 compliance, some refiners may experience temporary inefficiencies in production while cost-saving equipment is installed. Such situations are unlikely to be widespread, particularly given that a number of refiners have already begun producing gasoline of similar volatility to these standards, either voluntarily or due to state-administered RVP control (including California and the Northeast states) programs. However, all the information available to EPA indicates that a shorter leadtime would not be feasible without substantial economic impacts. Thus, despite the feasibility of supplying limited regional markets prior to 1992, a substantial majority of gasoline will still require significant RVP reductions, particularly in Class 'B' areas; EPA believes that compliance in 1990 or 1991 would not be generally achievable nationwide.

a. *Refinery Costs and Consumer Savings.* The RVP reductions required by this program will increase the refiner's cost of producing gasoline. Refiners will, in turn, pass this increased cost on to consumers. At the same time, consumers will experience two economic benefits which will offset gasoline's retail price increase. One effect, the "fuel economy credit," occurs because lowering RVP requires refiners to substitute components for butane which have greater energy density, allowing the consumer to purchase fewer gallons of gasoline for the same amount of travel. The other effect, the "evaporative recovery credit" is that the portion of purchased gasoline that is not evaporated due to its lower volatility and thus will be available to burn in the engine, again allowing consumers to purchase less gasoline. The following paragraphs further describe EPA's analyses of and results for refinery costs as well as the fuel economy and evaporative recovery savings; Chapter 4 of the Final RIA contains still further detail.

EPA's estimates of refining costs and our assessment of feasibility are derived from extensive computer modeling of how refiners will likely respond to RVP control requirements. The modeling (performed for EPA by Bonner and Moore Management Science, a respected consultant in the refining industry) follows changes in a large number of refinery parameters as gasoline RVP is reduced. The modeling work supporting this Phase II final rule was completed shortly after the original proposal of the program. Several commenters responded in detail to the updated refinery model and its uses.

Oil industry comments on refinery costs generally argued that EPA underestimated the actual likely costs of RVP controls. The specific areas of the model which were challenged included whether the modeling was too simplistic, whether too few months of RVP controlled fuel production was assumed, whether errors were made in the assessment of capital costs, and a number of smaller issues. The American Petroleum Institute (API) went further and had a different consultant perform a refinery modeling analysis parallel to Bonner and Moore's analysis for EPA. Based on their analysis, API also concluded that EPA underestimated the overall refinery costs of the RVP control program.

The final Bonner and Moore modeling runs incorporated improvements EPA had identified, several of which also addressed areas of concern raised in comments on the original proposal. The improvements included an estimate of the effect of reduced gasoline demand because of improved fuel economy with lower RVP fuel, an extended range of modeling to evaluate lower RVPs, and an assessment of the effect of reduced butane prices as butane is used less as a direct gasoline component.

EPA has reassessed its analysis in light of comments received, including API's new modeling. As a result several changes have been made in the way in which EPA applies Bonner and Moore's results. An error in the California modeling was addressed by taking specific California refinery results out of the overall calculation of refinery costs at various levels of control. More recent in-use RVP data was incorporated, clarifying that RVP has generally decreased in recent years, reducing the amount of control necessary to meet the standards. Fuel consumption estimates have been updated and the assumed time of production of controlled fuel has been increased from 5 months to 5½ months. After these changes are made and the model results are compared to API's model (with adjustments made to make them comparable), there is very little difference between the predicted costs. Therefore, EPA continues to use the Bonner and Moore results for this final rule.

As with emission reductions, the costs attributable to this program are based on RVP levels resulting from the climate-based analysis. For some states during some months, the final system of RVP standards will result in control costs that are either greater or less than under a climate-based system (this could amount to an additional cent per gallon in some state-months). This additional level of detail has not been incorporated into the overall cost analysis.

The resulting nationwide non-Northeast cost to refiners of the Phase II RVP regulations in 1995 will be about $464 million per year, or approximately 1.1 cents per gallon of gasoline. However, as discussed earlier, these Phase II costs will be offset by savings to the consumer of around $127 million per year for increased fuel economy and $107 million per year for evaporative emissions recovered through reduced volatility fuel, with a resulting net cost to society of $230 million per year.

As mentioned earlier, the Phase I volatility control results have been calculated again using the updated methodology of the Phase II analysis. The resulting nationwide non-Northeast cost to refiners of Phase I RVP controls in 1990 is about $185 million per year, or approximately 0.5 cents per gallon. However, these Phase I costs will be offset by savings to the consumer of about $45 million per year for increased fuel economy and $74 million per year for recovered evaporative emissions, for a slight net savings to society.

b. *Other Petroleum-Related Impacts.* In addition to the direct costs to the refining industry, RVP controls will also have impacts on the butane market. The potential economic impact of a volatility control program on the natural gas liquids (NGL) industry was the subject of extensive comment from companies that condense liquid butanes and other NGLs from raw natural gas; their trade organization, the Gas Processers Association (GPA); and individuals holding natural gas interests.

The vast majority of comments were based on an assumption that RVP controls would eliminate the use of butanes in the production of gasoline during the summer. Given this premise, they foresaw devastating impacts on the natural gas processing and producing industries.

After reassessing this issue, EPA cannot agree with the basic premise of most comments, *i.e.*, that the high-value use for butane in summertime gasoline will be completely lost, glutting the market with cheap butane that would displace lower-value fuels and petrochemical feedstocks. While we agree that butane will drop somewhat in price, Bonner and Moore's modeling of the refinery and petrochemical industries illustrates that the industry dynamics which are likely to follow RVP control are very different from those suggested in the comments.

Bonner and Moore's results indicate that after a relatively moderate drop in price (about 11 percent or less), refiners would themselves absorb the surplus of butane created by RVP controls. (Although the Phase I program required less RVP control than the Phase II program, it is interesting to note that 1989 spot market prices for butane, as well as for ethane, propane, and pentane, showed no identifiable changes in prevailing trends as a result of the implementation of Phase I RVP controls.) Rather than using the butane directly as a gasoline additive, most refiners will shift their production patterns to reduce butane production within the refinery and emphasize processes which use butane as a feedstock for high-octane, low-volatility gasoline components (such as alkylate). In doing so, it appears that the current market for butane in gasoline production will largely remain intact. Bonner and Moore reached this conclusion despite the fact that their model did not consider the expansion of production of methyl- or ethyl tertiary-butyl ether (MTBE or ETBE). With existing or new isomerization and dehydrogenation capacity, normal butane can be a feedstock for MTBE and potentially for ETBE. The Agency expects the current growth in such capacity to continue and probably increase under a volatility control scenario as more butane becomes available during the summertime months. This added demand for butane should further minimize the impact on butane prices.

Given the 11 percent (or less) price reduction for butane estimated above, we also cannot agree that the deep and broad consequences predicted in the comments will occur (including widespread closing of gas processing and related facilities and the shutting in of natural gas thus not processed for commerce). While EPA does not believe the size of the butane market will change significantly, the Agency does believe there will be a loss of up to 11 percent of butane revenues to gas processors for 5 months of the year. This effect should not be severe both because the decrease in butane prices should be relatively small (as noted above) and because for most companies operating gas processing facilities, butane accounts for only a fraction of their business (*e.g.*, from less than 1 percent to, in exceptional cases, as much as 40 percent of revenues). For a likely maximum loss in revenues of around 11 percent, loss of revenues overall should thus be no more than 5 percent, and typically much less. In the short-term, the largest impact is expected to be on imports of butane, which have been growing in recent years.

If a domestic gas processing facility is so economically marginal as to be threatened by even this small drop in butane prices, EPA believes there would be renegotiation of the nature of the contract between the processor for the natural gas and the producers serviced by the processing facility. Since gas producers need to have the condensate removed in order to market their gas, EPA expects that most producers would prefer to receive a reduced percentage of the gas processing income than to stop production. Only in a case where the producer was unusually dependent on revenues from the processor does it appear that a producer may not renegotiate to keep the processor economically viable. From the perspective of a gas producer, it appears that the normal fluctuations in natural gas price should be much more problematic than the loss of revenues due to this action. The effect is certainly much less severe than the loss of revenues that occurred in 1986, when crude oil prices plummeted and all condensate component prices dropped as much as 50 percent with a strong impact on plant economics but without massive closings.

Another issue on which we disagree with the NGL industry relates to whether butane's high price as a gasoline component is a true reflection of high intrinsic economic value, the reduction of which represents a net economic loss to society. Important in this regard is the fact that on hot summer days the difference between 9 and 11.5 RVP (representing about 5 percent butane) contributes to evaporative emissions and running losses representing roughly 1–2 percent of all gasoline purchased. In other words, under some conditions roughly 20–40 percent of the butane added to gasoline never reaches the engine and is wasted. Even under average conditions, the value of butane to vehicle owners may be less at current RVP levels than that of gasoline, even considering its octane enhancement value. Consumers have little opportunity to know the RVP of the gasoline they buy nor a perception of how much of what they buy is lost to evaporation. Insofar as any significant volatility-related emissions occur, the market cannot place a proper value on this wasted butane and consumers continue to pay a high price for the butane in the gasoline they buy. In this respect, shifting butane away from its apparent "high-value" use in gasoline may not even be a shift in value, since its true value in gasoline is likely not much different than its alternative, apparent "low-value" uses.

In addition to the impact on the butane market, RVP controls will also have an impact on imports of crude oil. Some additional imported crude oil may need to be purchased and processed in

order to replace part of the butane displaced by this Phase II program. However, because much of the butane is currently lost through evaporation anyway, not all of the butane will need to be replaced. EPA does not expect the effect on imported crude to be substantial. For example, the fraction of butane in gasoline that is lost to evaporation before reaching the engine (as described above, this may be substantial on some hot days) need not be replaced. In other words, because less evaporation will occur, gasoline demand will be reduced. The only butane which needs to be replaced is the butane actually used by the engine.

In addition, Bonner and Moore estimate that much (if not all) of the butane displaced from direct use in gasoline will be used in the production of other gasoline components, as described above, again reducing the amount of butane displacement affecting crude oil imports. Further, Bonner and Moore did not account for the likely increase in the production of MTBE and/or ETBE which would also allow butane to indirectly be used in gasoline.

Overall, EPA estimates that any increase in imported crude oil due to this Phase II program will be at most 152,000 barrels per day (or about 3 percent of 1989 imports and about 1 percent of total crude consumption); because of the mitigating effects just described, this will most likely be much lower. The Phase I increase in imported crude was calculated again using the same methodology as the Phase II analysis and is estimated to be at most 50,000 barrels per day.

Finally, as discussed next under "Feasibility of Compliance," this program may result in a short-term increase in imports of finished gasoline.

c. *Feasibility of Compliance.* EPA believes that Phase II RVP reductions required by this program are achievable by the summer of 1992. Refiners have a number of ways available to remove butane, to make up the lost gasoline volume, and to meet the octane requirements.

These approaches include installing additional capacity for fractionation, for alkylation, and/or for MTBE/ETBE production. Some refiners may have difficulty completing all the changes they will ultimately need to re-optimize their operations. Nevertheless, other options will be available if necessary while cost-saving equipment installation is completed. These short-term options include process changes, shifting high-octane gasoline components used in mid-grade and premium unleaded gasolines to the regular unleaded fuel, and/or importing finished gasolines or gasoline components. Thus, despite some possible temporary economic inefficiencies for some refiners, compliance with the second phase of RVP controls appears feasible nationwide in 1992 without significant impact on gasoline supplies.

d. *Driveability and Fuel Safety.* Finally, commenters raised the issues of low and high temperature driveability and fuel safety. They claimed that low RVP gasoline will negatively affect driveability and could lead to explosivity concerns at low enough temperatures (tank vapor concentration normally is too rich to explode). Commenters were especially concerned about cases when lower RVP fuel might be supplied earlier in the spring as the RVP of gasoline stocks is blended down. The concerns about high temperature conditions focused on driveability effects like vapor lock (interruption of liquid fuel flow by "bubbles" of vaporized gasoline) and on potential safety problems like fuel spurting from overpressurized tanks.

EPA has analyzed both of these issues in detail (see Chapter 4 of the final RIA) and believes that to the extent that some vehicles currently respond to high RVP at high temperatures with poor driveability or fuel spurting, this program will improve driveability and safety. At the other extreme of low temperatures and low RVP gasoline, EPA has carefully analyzed this issue by evaluating actual tank vapor conditions both for the Phase II program and for current in-use RVP and temperature conditions during the winter. EPA's analysis concludes that driveability should be no worse (and should usually be better) than currently occurs in the winter using common winter fuels. Regarding fuel safety, the same analysis concludes that it is highly unlikely that tank vapor pressure conditions will occur which are lower than current winter experience. (Recent data and analysis submitted by Phillips 66 has been included in the EPA analysis.) Therefore, EPA does not believe flammability or explosivity concerns due to this program are warranted.

3. Analysis of Alternatives

Several aspects of the overall proposed RVP control program make it a very attractive option compared to other approaches to ozone control. The absolute reductions in VOC available are larger than any other single program now available. The program is feasible, and costs, while significant, will not likely be discernible from typical price fluctuations by most consumers. A gasoline RVP program is further attractive because the costs can be limited to the summer months, when ozone is a problem. Another attractive aspect of RVP control is its immediate, total effect on emissions from all gasoline-powered vehicles of all ages and conditions, as well from gasoline-related stationary sources (*e.g.*, fuel storage facilities).

In addition to considering these factors, EPA has performed analysis of the cost effectiveness of today's RVP control program. EPA has commonly used cost effectiveness (dollars per ton of emissions reduced) as one tool for assessing how alternative approaches to control compare to one another as well as how a control program compares to other related programs (in this case, VOC control programs). EPA presents cost-effectiveness results merely to provide additional comparative information; these results should not be interpreted as establishing a baseline for cost effective standards in any context.

For volatility control, it is most useful to evaluate the incremental cost effectiveness (or the cost effectiveness for the final step of control) rather than the overall cost effectiveness. This is due to the fact that as RVP is reduced, costs increase and emission reductions decrease. Therefore, the cost-effectiveness value for the total RVP reduction of the program could theoretically be favorable while the value for the last increment of control is not. To avoid underestimating this value, EPA used an incremental cost effectiveness calculation in the NPRM and in the Phase I final rule; the Agency will continue to use this approach for this rulemaking.

For Phase II, these incremental cost-effectiveness values have been recalculated using updated cost and emission reduction numbers described above. The cost effectiveness of Phase I was also calculated again using MOBILE4.0 values and updated cost estimates. The methodology for these calculations is essentially the same as that proposed in the NPRM. We again focus on adjusted cost-effectiveness values which allow a valid comparison of this nationwide, seasonal RVP control program with year-round nonattainment area only ozone-control programs. To do this, emission reductions were first expanded to those which would occur if the program were year-round. They

were then adjusted downward to include only nonattainment area reductions. Finally, as a way of acknowledging some value for emission reductions in areas currently in attainment for ozone, EPA has included a very conservative credit of $250 per ton of emissions reduced. EPA has not established $250 per ton over any other value as appropriate for such reductions. In fact, the total benefits of reducing ozone levels (*e.g.*, less damage to crops, materials, and forests), as well as additional direct benefits of reducing VOC and particulate matter (*e.g.*, reduced risk of mortality and morbidity and reduced soiling) are very likely in excess of $250 per ton.

Unlike the NPRM, this analysis was expanded to evaluate the cost-effectiveness of the program in the three individual RVP classes as well as for the entire country.

As described earlier, the emission reduction and cost analyses for this program are based on RVPs resulting from the climate-based analysis, and thus do not incorporate the small additional net reductions and costs attributable to the final system of RVP standards. Since both reductions and costs are slightly larger, cost effectiveness ratios remain essentially the same using either approach.

The overall costs were calculated as the refinery costs of producing the lower volatility fuel minus the two economic credits resulting from the program, as mentioned earlier. (Again, the fuel economy credit results from the increase in fuel economy resulting from the greater energy density of lower volatility gasoline; the fuel recovery credit involves savings due to recovering and burning vapors rather than wasting them through evaporation.)

Table 1 presents the incremental cost-effectiveness results for Phase II for the entire nation and for each volatility class individually. (For completeness, Class 'A' values are also reported based on the climate-based results, although no Class 'A' standards are promulgated in this final rule.) These cost-effectiveness values are substantially lower than those projected in the proposal. This is mainly due to the increased VOC benefits calculated by MOBILE4.0 Since MOBILE4.0 predicts greater emissions there are, therefore, greater potential reductions (*i.e.*, increased evaporative and running loss reductions). This increase in emission reductions also leads to lower overall costs because the larger evaporative recovery credit offsets refinery costs to a greater degree.

If cost effectiveness were to be calculated using emission reductions based on average summer temperatures, instead of the average of temperatures on the days of the ten highest ozone measurements, projected emission reductions would be smaller and the incremental cost effectiveness values larger ($970/ton nationwide, or $710, $1091, and $854/ton for Classes A, B, and C, respectively.)

For completeness, Table 2 presents the cost-effectiveness results for Phase I. These values represent the cost effectiveness of the entire reduction from base RVP levels to Phase I levels, if calculated on an incremental basis, these values would be somewhat higher (though less than the Phase II incremental results.)

TABLE 1.—COSTS, EMISSION REDUCTIONS, AND INCREMENTAL COST-EFFECTIVENESS OF PHASE II RVP CONTROL

	Total costs[1] ($\times 10^6$ $)	Total VOC reductions[2,4] ($\times 10^3$ tons)	Incremental C/E[3] ($/ton)
Nationwide	130.4	1316	700
Class 'A'	−10.6	122	610
Class 'B'	73.9	696	720
Class 'C'	56.8	525	670
Nationwide	130.4	863	970
Class 'A'	−10.6	100	710
Class 'B'	73.9	505	1090
Class 'C'	56.8	284	850

[1] Includes refining cost, fuel economy credit, fuel recovery credit, and attainment area credit.
[2] High-ozone day reduction multiplied by 365.
[3] Note that incremental C/E is calculated from incremental costs and reductions presented in the RIA.
[4] Average summer day reduction multiplied by 365.

TABLE 2.—COSTS, EMISSION REDUCTIONS, AND COST-EFFECTIVENESS OF PHASE I RVP CONTROL

	Total costs[1] ($\times 10^6$ $)	Total VOC[2] reductions ($\times 10^3$ tons)	Total C/E ($/ton)
Nationwide	−6.4	836	−14

[1] Includes refining cost, fuel economy credit, fuel recovery credit, and attainment area credit.
[2] High-ozone day reductions multiplied by 365, for comparison to year-round VOC control programs which include control of non-summer emissions.

B. Alcohol Blend RVP Control

As indicated above, EPA has decided to implement Phase II with provisions that essentially maintain the economic status quo of the ethanol and methanol producing and blending industries—relative to each other and to the rest of the motor fuel industry. This involves a 1.0 psi RVP allowance for ethanol blends (gasohol) and no change in the current requirements that methanol blends meet the applicable gasoline RVP standard.

1. Ethanol Blends

Comments from the ethanol production and blending industries maintained that at least a 1.0 psi RVP allowance is an economic necessity for producing gasohol. They argued that lower RVP gasoline would be necessary to produce gasohol which could meet the gasoline RVP standards, and yet that the refining industry was not likely to make available sufficient lower-RVP product to maintain a significant gasohol market. The refiners reinforced this lack of interest in providing gasohol blendstock in materials they presented to EPA.

The other major area of comment related to the environmental impact of permitting gasohol to be sold at a higher RVP than gasoline. Ultimately, the issue is to what extent ozone levels are affected. Gasohol interests claimed that several phenomena reduce the ozone impact of higher RVP gasohol relative to gasoline of similar higher RVP (*e.g.*, the lesser tendency of ethanol emissions to produce ozone (reactivity) compared to hydrocarbons, and a reduction in carbon monoxide (CO) emissions and thus a reduction in CO's role in ozone production). As detailed in the Final RIA, recent studies have indicated that the ozone impact of gasohol at 1.0 RVP higher than gasoline is less than we earlier believed (i.e., a range of about zero to 1 percent increase in ozone levels based on the analysis referenced in the Final RIA).

EPA has concluded that the potential economic jeopardy to the fuel ethanol industry of requiring the same RVP standards for gasoline and gasohol is real. Commenters provided little evidence as to how the industry could survive such an impact. It is possible that other significant markets for ethanol might develop which would mitigate the impact of the loss of direct ethanol blending. For example, widespread use of the ether ETBE, a low volatility gasoline additive made from ethanol, might provide ethanol producers with a substitute motor fuel market. Similarly, a large-scale program to require the use of oxygenates in some cities might also ensure a market for ethanol. However, at present no such significant alternate markets exist.

While some believe the industry should not exist, it is not appropriate to resolve that issue in the context of this rulemaking. Other agencies and Congress will continue to address related agricultural, trade and energy issues which have led to federal support for the existence of the gasohol industry. EPA would require strong evidence of severe environmental consequences in order to support a policy which might eliminate this industry, evidence which does not currently exist.

This 1.0 psi RVP allowance for gasohol adopted in this final rule thus reflects the moderation in EPA's concern about negative air quality impact as well as a reluctance to threaten the motor fuel ethanol production and blending industries with collapse. Gasohol RVP is not totally unregulated. The 1.0 psi "cap" avoids the potential "loophole" of high-RVP gasoline (which cannot be sold during the summer under these regulations) being blended with gasohol; a 1.0 psi allowance assures that ethanol will usually be blended with gasoline which meets the gasoline standard. EPA will continue to explore the economic and air quality issues relating to gasohol RVP, and we may at some point choose to propose changes in the treatment of gasohol.

2. Methanol Blends

As indicated earlier, methanol blends receive no special treatment with respect to RVP control in this program. Methanol blends have generally been through an EPA waiver process, and in each case the provisions of the waivers have necessitated the use of lower RVP base gasoline so that the blend RVP does not exceed the applicable ASTM RVP specification. (This contrasts with the case of gasohol which prior to the Phase I program was unregulated with respect to RVP.) Because of the new air quality issues which would be raised by introducing an RVP allowance, EPA is not changing existing policy relative to methanol blends in this regulation.

VI. Public Participation

EPA held a public hearing on the proposal in October of 1987. Upon the request of oil industry representatives, the subsequent comment period was extended twice, ultimately until February 11, 1988. During this time, EPA received a large number of comments covering a wide range of issues. Each submittal has been placed in Docket A-85-21 (see "Addresses," above); the Phase II Final RIA summarizes the comments related to the Phase II program and EPA's response to them.

Major comments and responses are also reviewed in the context of the issues discussed earlier in this preamble.

A. Other Alternatives

EPA has considered all alternative evaporative emission control programs presented in the comments that were supported by data and technical analysis. In addition, we received a wide range of suggestions that did not specifically challenge our analysis, that did not offer specific analysis to support the suggestion, or that were aimed at regulatory goals different from EPA's; these we have not attempted to address directly. Because the RVP controls promulgated here are extremely cost-effective and further controls at this time would raise issues of driveability, fuel safety, and refining capacity that are not well understood, we are confident that we have thoroughly considered all feasible options to this Phase II programs.

VII. Paperwork Reduction Act

The information collection requirements contained in the Phase I RVP rule have been approved by the Office of Management and Budget (OMB) under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 et seq., and have been assigned OMB control number 2060-0178. No additional requirements are added in this notice.

VIII. Impact on Small Entities

EPA's evaluation of the effects of the proposed RVP control program on small refiners, performed for the NPRM and summarized in that preamble, remains valid. Our conclusion then and now is that RVP control programs, including this Phase II program, will improve the competitive position of some small refiners (those with catalytic cracking capability), while likely causing a small reduction in revenues (relative to total revenues) for other small refiners.

In the NGL industry, many gas processors are small entities. However, as discussed above under "Economic Impact," we do not expect the loss in revenues to gas processors to be severe under this Phase II RVP control.

Finally, EPA believes that the impacts on other small entities (e.g., small blenders, importers, retailers, etc.) would occur primarily in the form of a slightly higher wholesale gasoline price which would then be passed along in product price increases. Since all wholesale suppliers would increase prices by about the same amount, the competitive environment for small entities purchasing that gasoline should not be affected significantly.

As a result of this analysis, performed under section 605 of the Regulatory Flexibility Act, I certify that the regulations promulgated in this notice will not have a significant impact on a substantial number of small entities.

IX. Administrative Designation and Regulatory Analysis

The Administrator has determined that this action constitutes a major regulation. Accordingly, final analyses on issues pertinent to this action have been completed. Final Regulatory Impact Analysis prepared under Executive Order 12291 contains the summary and responses to comments and the final analysis.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to those comments are in the public docket for this rulemaking.

Single copies of the Final RIA may be obtained by contacting: Ms. Jackie McManus, U.S. EPA, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668-4756.

X. Statutory Authority

Authority for the actions promulgated in this notice is granted to EPA by sections 114, 211, and 301 of the Clean Air Act (42 U.S.C. 7414, 7545, and 7601).

List of Subjects in 40 CFR Part 80

Fuel additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 31, 1990.

F. Henry Habicht,

Acting Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7545, and 7601(a).

2. Section 80.27 is amended by designating the table as paragraph (a)(1) and adding a paragraph heading and by adding a new paragraph (a)(2) to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

(a) * * *

(1) Applicable Standards [1] 1989–1991.

* * * * *

[1] Standards are expressed in pounds per square inch (psi).

(2) Applicable Standards [3] 1992 and Subsequent Years.

[3] Standards are expressed in pounds per square inch (psi).

State	May	June	July	August	September
Alabama	9.0	7.8	7.8	7.8	7.8
Arizona	9.0	7.8	7.8	7.8	7.8
Arkansas	9.0	7.8	7.8	7.8	7.8
California	9.0	7.8	7.8	7.8	7.8
Colorado	9.0	7.8	7.8	7.8	7.8
Connecticut	9.0	9.0	9.0	9.0	9.0
Delaware	9.0	9.0	9.0	9.0	9.0
District of Columbia	9.0	7.8	7.8	7.8	7.8
Florida	9.0	7.8	7.8	7.8	7.8
Georgia	9.0	7.8	7.8	7.8	7.8
Idaho	9.0	9.0	9.0	9.0	9.0
Illinois	9.0	9.0	9.0	9.0	9.0
Indiana	9.0	9.0	9.0	9.0	9.0
Iowa	9.0	9.0	9.0	9.0	9.0
Kansas	9.0	7.8	7.8	7.8	7.8
Kentucky	9.0	9.0	9.0	9.0	9.0
Louisiana	9.0	7.8	7.8	7.8	7.8
Maine	9.0	9.0	9.0	9.0	9.0
Maryland	9.0	7.8	7.8	7.8	7.8
Massachusetts	9.0	9.0	9.0	9.0	9.0
Michigan	9.0	9.0	9.0	9.0	9.0
Minnesota	9.0	9.0	9.0	9.0	9.0
Mississippi	9.0	7.8	7.8	7.8	7.8
Missouri	9.0	7.8	7.8	7.8	7.8
Montana	9.0	9.0	9.0	9.0	9.0
Nebraska	9.0	9.0	9.0	9.0	9.0
Nevada	9.0	7.8	7.8	7.8	7.8
New Hampshire	9.0	9.0	9.0	9.0	9.0
New Jersey	9.0	9.0	9.0	9.0	9.0
New Mexico	9.0	7.8	7.8	7.8	7.8
New York	9.0	9.0	9.0	9.0	9.0
North Carolina	9.0	7.8	7.8	7.8	7.8
North Dakota	9.0	9.0	9.0	9.0	9.0
Ohio	9.0	9.0	9.0	9.0	9.0
Oklahoma	9.0	7.8	7.8	7.8	7.8
Oregon	9.0	7.8	7.8	7.8	7.8
Pennsylvania	9.0	9.0	9.0	9.0	9.0
Rhode Island	9.0	9.0	9.0	9.0	9.0
South Carolina	9.0	7.8	7.8	7.8	7.8
South Dakota	9.0	9.0	9.0	9.0	9.0
Tennessee	9.0	7.8	7.8	7.8	7.8
Texas	9.0	7.8	7.8	7.8	7.8
Utah	9.0	7.8	7.8	7.8	7.8
Vermont	9.0	9.0	9.0	9.0	9.0
Virginia	9.0	7.8	7.8	7.8	7.8
Washington	9.0	9.0	9.0	9.0	9.0
West Virginia	9.0	9.0	9.0	9.0	9.0
Wisconsin	9.0	9.0	9.0	9.0	9.0
Wyoming	9.0	9.0	9.0	9.0	9.0

[FR Doc. 90–13346 Filed 6–8–90; 8:45 am]

BILLING CODE 6560–50–M

federal register

Monday
June 11, 1990

Part IV

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 791

Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds; Proposed rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 791

[Docket No. R-90-1284; FR-1896-P-03]

RIN 2501-AA88

Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: HUD proposes to revise its regulations for the allocation of housing assistance funds in 24 CFR part 791 to update the rule as a whole, to reflect more explicitly statutory changes made by the Housing and Urban-Rural Recovery Act of 1983, and to incorporate the allocation and competitive distribution provisions of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235; Dec. 15, 1989). The proposed rule contains an explicit description of the allocation formula and procedures, deletes specific requirements on allocating funds in accordance with approved Housing Assistance Plans (HAPs), eliminates the requirement for local consultation in the allocation process, deletes repealed eligibility categories from the Headquarters Reserve authority, prescribes competitive methods of fund distribution, and indicates related public disclosure requirements.

HUD also proposes to amend part 791 to consolidate local government submission requirements and HUD criteria for the review of applications for housing assistance in one location. The proposed rule would add a reference to a HAP amendment procedure which would permit HUD to approve applications in situations where the locality has been making a good-faith effort to meet its three-year HAP goals in a proportional manner, but has been unable to do so because of insufficient financial resources from HUD or other sources.

DATES: Comments due: August 10, 1990.

ADDRESSES: Interested persons are invited to submit comments on the proposed rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500. Each comment should include the commenter's name and address and should refer to the docket number and title indicated in the heading of this document. A copy of each comment will be available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708-4337. Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk (202) 708-2084. (This is not a toll-free number.)

FOR FURTHER INFORMATION CONTACT: For the Public and Indian Housing program, Nancy S. Chisholm, Director, Office of Policy, room 4118, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500, telephone (202) 708-0713. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708-0850. For other assisted housing programs, Stephen W. Cooley, Office of Policy Development, room 9220, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-8000, telephone (202) 708-2454. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Information Collection

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**. Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, "Findings and Certifications".

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden (including the identifying docket number and title), to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for HUD.

I. Background

Part 791 describes the roles of HUD and the local governments in the allocation of assisted housing funds and in the review of applications for housing assistance under a variety of HUD programs. The principal statutory authority for part 791 is contained in section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439). Section 213(d) requires that housing assistance be allocated on the basis of a formula which takes into account the relative needs of different States, areas and communities. Relative need is to be determined based upon data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions. Section 213(a) establishes procedures for assuring that, to the maximum extent practicable, housing assistance funds are used to meet the needs and goals identified in the locality's Housing Assistance Plan (HAP).

On June 3, 1982 (47 FR 24120), HUD published an interim rule revising part 791 to conform with statutory changes made by the Housing and Community Development Amendments of 1981 (Pub. L. 97-35). Part 791 was revised at that time to accomplish the following objectives:

1. To clarify the process used by HUD to allocate and reallocate assisted housing funds, including new procedures for Field Office consultation with local governments and areawide planning organizations (APOs) during the allocation process.
2. To eliminate provisions governing the Department's Areawide Housing Opportunities Plan (AHOP) program.
3. To modify the criteria for local government and HUD review of assisted housing applications, reflecting changes in the content of HAPs and statutory limitations on the use of contract authority for housing types which might be different from those in HAP goals.

The procedures for consultation with local governments and APOs were developed in response to a 1981 amendment adding a new section 5(c)(3) to the United States Housing Act of 1937

(42 U.S.C. 1437c). Among other things, section 5(c)(3) required that, to the extent allowable within statutory constraints on funding levels and percentages for each housing type, HUD must accommodate local preferences on housing type, program type, and the use of development funds for public housing modernization. Section 5(c)(3) applied only to allocation of fiscal year 1982 contract and budget authority; however, the consultation procedures included in the interim rule contained no time limit on their applicability.

The Department's decision to eliminate the AHOP program resulted from several legislative and budgetary changes affecting HUD programs. These included (1) the repeal of the section 701 planning assistance program (40 U.S.C. 461), which was a major source of funding used by APOs in preparing their AHOPs, and (2) the reduced level of funds for assisted housing, which made it highly unlikely that AHOP bonus funds could be made available.

Comments on the interim rule were received from the National Association of Regional Councils, three APOs, three local governments, and two HUD field offices. Many of these comments are now moot because the termination of the AHOP program is now completed, but principally because of further amendments to the statutory authority for part 791 made in 1983 and 1989. However, some comments addressed to the allocation process are still relevant and are discussed in part V of the preamble. When the final rule is published on this proposed rulemaking, the Department expects to include those portions of the 1982 interim rule that have not been further revised by this rulemaking.

The interim rule became effective on October 1, 1982. In the meantime, the President approved the Urgent Supplemental Appropriations Act, 1982 (Pub. L. 97–216, approved July 18, 1982). This Act permitted contract and budget authority for assisted housing to be allocated without being subject to the procedural requirements of section 213(d) or section 5(c)(3). Essentially, the same exemption provision was included in the Further Continuing Appropriations Act, 1983 (Pub. L. 97–377); in the HUD-Independent Agencies Appropriations Acts for 1984, 1985, and 1986 (Pub. L. 98–45, 98–371 and 99–160, respectively); and in HUD's appropriation for fiscal year 1987 (Pub. L. 99–591) and fiscal year 1988 (Pub. L. 100–202).

Because the exemption provision applied to contract and budget authority under section 5(c) of the 1937 Act, it did not exempt the allocation of loan authority for elderly and handicapped housing under section 202 of the Housing Act of 1959. Nevertheless, this provision had the effect of making the allocation procedures of part 791, and particularly the procedures for local consultation, largely inoperative for fiscal years 1983 through 1988. The HUD-Independent Agencies Appropriations Act, 1989 (Pub. L. 100–404), restored the applicability of section 213(d) to the programs funded under the Annual Contributions for Assisted Housing Appropriation line. Section 213(d) remains applicable under the HUD-Independent Agencies Appropriations Act, 1990 (Pub. L. 101–144).

II. 1983 Statutory Amendments

On November 30, 1983, the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98–181) was enacted. Section 201 of the 1983 Act amended the allocation process in section 213(d) in a number of significant ways:

1. For the first time, section 213(d) required that the Secretary of HUD allocate housing assistance "on the basis of a formula which is contained in a regulation * * * and which is based on the relative needs of different States, areas, and communities * * *." Previously, the wording specified only that "The Secretary, so far as practicable, shall consider the needs of different areas and communities * * *." While an explicit formula is now required, there is no change in the factors for determining relative housing need listed in section 213(d).

2. Section 213(d) now provides that allocation on the basis of the formula is required only the first time the assistance is available for reservation. Thus, funds carried over from previous fiscal years need not be allocated using this formula. However, section 213(d) also specifies that the amount of assistance allocated to metropolitan and nonmetropolitan areas and the amount that the Secretary is authorized to retain for certain kinds of housing needs identified in section 213(d)(4) are to be based on the total assistance available, including carryover. Thus, the first-time only provision had little practical impact. Statutory changes in 1989 increase the potential for such impact; see part III of this preamble.

3. A previous requirement that the Secretary assure that the assistance be allocated or reserved in accordance with local, State or other HAPs has been deleted from section 213(d). In its place, a sentence was added to section 213(a)(1) reiterating that, in considering specific applications for assistance, the funds must be utilized to the maximum extent practicable to meet HAP needs and goals.

In addition to these changes, section 201 of the 1983 Act also deleted section 5(c)(3) of the U.S. Housing Act of 1937, which provided that local preferences must be accommodated in the allocation of fiscal year 1982 housing assistance. As previously discussed, this provision was the basis for the consultation procedures in the present regulations (§ 791.405).

III. 1989 Statutory Amendments

The Department of Housing and Urban Development Reform Act of 1989 (the "Reform Act") was enacted on December 15, 1989 (Pub. L. 101–235). Sections 101 and 104 of the Reform Act amended section 213(d) in several fundamental respects.

1. The homeownership and rental assistance programs under sections 235 and 236, respectively, of the National Housing Act are eliminated from any coverage under section 213. This deletion is statutory housecleaning which reflects the absence of any new funding for these programs in many years.

2. Section 101 did not change the components of the formula required to be contained in the regulation, but contains a requirement that the Secretary of HUD apply the formula, to the extent practicable, so that assistance is allocated according to the particular relative needs of those components that are characteristic of and related to the particular type of assistance under each given program. Further, section 101 added a special provision for the section 202 loan program for elderly and handicapped which requires that assistance be allocated to ensure projects of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly tenants.

3. The Reform Act expressly incorporated the longstanding HUD practice of allocating assistance, before application of fair share formula variables, for purposes approved in Appropriations Acts for uses that the Secretary determines are incapable of geographical allocation on the basis of a formula. This approach is set out in the existing rule at § 791.403(d). But the Reform Act also made another important change in this practice by deleting such assistance from the requirement that between 20–25 percent of all assistance be allocated to nonmetropolitan areas.

4. Section 213(d)(1)(C) was amended to require that any formula allocation "shall, as determined by the Secretary,

be made to the smallest practicable area, consistent with the delivery of assistance through a meaningful competitive process designed to serve areas with greater needs."

5. In addition to the statutorily imposed balancing of competition with allocations to the smallest practicable area, the Reform Act also subjected all fair shared assistance to competitive distribution. All such competitions must be conducted pursuant to selection criteria contained in a regulation promulgated after notice and public comment or to the extent authorized by law, contained in a Notice published in the Federal Register.

6. Section 104 of the Reform Act amended the provisions of section 213(d)(4) which establish the Headquarters Reserve. First, the 15 percent cap on the Headquarters Reserve was reduced to five percent. Second, the list of eligible categories for which such assistance can be retained was reduced to four types: unforeseen housing needs resulting from natural and other disasters; housing needs resulting from emergencies, as certified by the Secretary, other than such disasters; housing needs resulting from the settlement of litigation; and housing in support of desegregation efforts. Third, the statute now contains an explicit requirement that Headquarters Reserve funds unexpended at the end of the Fiscal Year shall be fair shared in the next Fiscal Year. The provisions of section 104 do not take effect until October 1, 1990. Until that time the 15 percent cap and earlier listing of funding categories remain available.

IV. The Proposed Rule

This proposed rule would revise the Department's procedures for the allocation of housing assistance funds to reflect the statutory changes in the 1983 and 1989 Acts. Pursuant to the 1983 changes, subpart D of part 791 would be amended to provide an explicit description of how the available housing assistance is to be allocated in accordance with the allocation formula, and how the housing needs percentages for field offices and allocation areas are to be calculated. In addition, subpart D would be revised to remove specific requirements on allocating or reallocating budget authority in accordance with approved HAPs. Third, subpart D would be amended to remove the requirement for local consultation during the allocation process.

In furtherance of the Reform Act, subpart D would be amended to establish criteria for determinations of smallest practicable areas for the allocation of housing assistance. Also, this subpart would be revised to provide greater guidance with respect to funding assistance not capable of geographic allocation. Further, competition requirements would be set out. Last, the Headquarters Reserve regulation would be revised in accordance with the changes described above.

This proposed rule would also amend some sections of subpart B, which is concerned with local government and HUD review of applications for housing assistance for HAP consistency. Changes are proposed to § 791.204(a) to include in one place all of the submission requirements to be met when a local government has no objection to an application which is inconsistent with their approved HAP. Also proposed are changes to § 791.205(c) to include in one place all of the review criteria for HUD approval of an application. It is anticipated that these changes will make it easier for the local government and HUD to identify what additional documentation needs to be furnished and to more readily determine whether an application is approvable under the review criteria.

The proposed rule would add a reference to a HAP amendment procedure which would permit HUD to approve applications in situations where the locality has been making a good-faith effort to meet realistic three-year household type goals in its HAP in a proportional manner, but has been unable to do so because of insufficient financial resources from HUD and other sources. (The term "household type goals" refers to goals to meet the needs of small family, large family and elderly households.) The Department has amended 24 CFR 570.306 to include a new provision allowing certain HAP amendments to be approved where the household type goals are not proportional to need. This applies only to amendments made during the second or third year of a three-year HAP, and then only where (1) the amendment is needed to accommodate an otherwise acceptable proposal for housing assistance from HUD; (2) resources are not likely to be available to support commensurate increases in the goals for other household types; and (3) HUD determines that the locality has taken all reasonable steps to meet its three-year goals for the other household types, and has taken no actions designed to block the provision of housing assistance. Sections 791.204(a)(3) and 791.205(c)(1)(ii) of this proposed rule cite the new HAP amendment provision.

As indicated above, several key provisions of section 101 of the Reform Act incorporate HUD administrative practice in carrying out the existing provisions of subpart D. For example, the "fair share" formula factors spelled out in this proposed rule are the same factors used in the past. Similarly, the express exclusion from geographic allocation has long been authorized in the regulations. Further, while subpart D to date has not expressly set forth requirements that funds be both allocated geographically and distributed competitively, most of the applicable programs to be fair shared call for the commitment of such assistance through competitive means in the specific program regulations. See, e.g., § 882.501 (section 8 moderate rehabilitation); § 885.220 (section 202 loans). For these reasons, the Department intends to award all applicable assistance during FY 1990 through interim instructions which follow the terms and spirit of the allocation and competition provisions of section 101 of the Reform Act. On the other hand, the provisions of section 104 reforming the Headquarters Reserve do not take effect until October 1, 1990, and their effective implementation will await the Final Rule of this proposed rulemaking. Nevertheless, to the extent compatible with mid-year planning, the Department will attempt to administer the Headquarters Reserve in the spirit of the Reform Act. For example, no section 202 loan authority will be held in the Headquarters Reserve in Fiscal Year 1990.

The following gives a section-by-section description of the major changes proposed for part 791. In addition, a number of revisions are to be made to change obsolete references or to clarify wording.

Section 791.101 Applicability and Scope

The last two sentences of paragraph (a), indicating that part 791 applies in only a limited manner to the allocation of funds for public housing modernization and not at all to public housing operating subsidies, would be removed. In their place, paragraphs (a)(1) and (a)(2) would be added to indicate that (1) part 791 does not apply to programs for public housing operating assistance, public housing modernization, or rental rehabilitation grant assistance under sections 9, 14, or 17 of the U.S. Housing Act of 1937, and (2) subpart D is not applicable to the allocation of funds for the housing development grant program under section 17 of the 1937 Act.

The public housing operating assistance and modernization programs are not covered because these programs provide only supplemental assistance for already existing public housing units,

and there is no impact on the housing needs and goals identified in local HAPs. The 1983 amendments to section 213(d) exempted both the rental rehabilitation and housing development grant programs under section 17 from the allocation procedures in subpart D because they have their own procedures for allocating assistance. Additionally, the Department proposes not to subject the Rental Rehabilitation program to the application review procedures of subparts B and C because there is no application submitted to obtain assistance.

The references to sections 235 and 236 of the National Housing Act would be removed from paragraph (a) to mirror their elimination from the statute in 1989. Correspondingly, reference to mortgage insurance would be removed from the definition of "Application for housing assistance" in § 791.102.

The last sentence of paragraph (b), which refers to the use of interim HAPs in allocating or reallocating housing assistance, would also be deleted, since this is no longer a statutory requirement.

Section 791.102 Definitions

The definitions of "areawide housing plan" and "areawide planning organization" would be deleted, since the procedures in the current regulations for consultation with APOs that have areawide housing plans are to be eliminated. The term "Assistant Secretary" is to be defined as the Assistant Secretary for Housing or the Assistant Secretary for Public and Indian Housing, as appropriate to the housing assistance under consideration. Several other definitions would be modified to correct obsolete information or clarify meaning.

Section 791.202 Notification of local government

Paragraph (b)(5) would be revised to state that, where the local government has no objection to an application's approval despite an inconsistency with the approved HAP, it must submit additional documentation (either a statement of local need and support or a HAP amendment, depending on the type of inconsistency). Currently, this paragraph requires the local government to "resolve this inconsistency."

Section 791.204 Local government response

Paragraph (a) would be revised to include in one place all of the submission requirements to be met where the local government has no objection to an application which is inconsistent with the approved HAP. (Some of these requirements appear in the present regulations in § 791.206 (a) and (b).) Also, included in paragraph (a)(3) is a new provision for approving an application where the locality is in the second or third year of its HAP and the application would make it unlikely that the total assistance over the three-year period would be proportional to the HAP's three-year household type goals.

Section 791.205 HUD review of applications for housing assistance.

Paragraph (c) would be amended to specify that, to the maximum extent practicable, the Field Office shall assure that an application meets housing needs and goals identified in the approved HAP. This provision reflects the language added to section 213(a)(1) by the 1983 Act. In addition, paragraph (c) would be revised to include in one place all of the review criteria for HUD approval of an application. Paragraphs (c)(1) (i) and (ii) would describe the circumstances under which HUD may approve an application which would exceed the three-year household type goals in the HAP (now found in § 791.206 (a) and (b)). Paragraph (c)(1)(iii) would contain the requirement that HUD must review and approve a HAP amendment if the locality is in the second or third year of its HAP and the application would make it unlikely that the total assistance over the three-year period would be proportional to the household type goals. The present § 791.206(c), which states that an application for section 8 assistance under 24 CFR part 886 may be approved without regard to variations from three-year HAP goals, would be included as paragraph (c)(3) and would be revised to indicate that approval would be given without regard to variations from household type goals or housing type preferences. Similar authority would be provided at paragraph (c)(4) for approval without regard to variations from three year goals of section 8 assistance (such as certificates or vouchers used as legally necessary substitution or replacements for already assisted housing—such as "opt-outs" from section 8 projects or the demolition or disposition of public housing projects under section 18 of the United States Housing Act of 1937).

Section 791.206 Variation from HAP goals

The section would be removed, since its provisions are more logically included in §§ 791.204(a) and 791.205(c).

Section 791.303 Notification of local government

Paragraph (a)(3) would be revised to refer to 24 CFR part 887 (the Housing Voucher Program).

Section 791.401 General

This section would change the reference in subpart D to allocation of contract authority and budget authority simply to budget authority. It would also make clear that this reference means (as appropriate) grant authority under the Public and Indian Housing program, since HUD's appropriation for the program now utilizes a capital grant authority.

Section 791.402 Determination of lower income housing needs

This section would be revised to indicate the sources of information and the criteria to be used to derive various factors used in calculating the relative need for housing assistance programs, as well as describing how these factors are to be aggregated to provide metropolitan and nonmetroplitan housing needs percentages for Field Offices in relation to national totals. This description of the factors used to determine relative housing need is consistent with section 213(d)(1), as amended by the 1983 Act, which requires that this information be contained in the regulation prescribed by the Secretary. Similarly, the factors would be tailored to each particular program to meet the Reform Act requirement that the Secretary allocate program assistance according to the particular relative needs that are characteristic of and related to the particular type of assistance provided under the program. The factors would be based upon data from the most recent decennial census which may be updated (if possible) with regional data from the most recent American Housing Survey. The factors' emphasis on renter-related data is intended to more closely align the allocation formula with the beneficiaries of HUD's housing assistance programs. For the section 202 elderly program, the data used would reflect characteristics of the elderly population. While the section 202 program for the handicapped (as discussed below) would not be part of the fair share allocation process, these funds also are allocated pursuant to a formula which reflects the characteristics of the handicapped population by weighing equally measures of the numbers of persons identified as having (1) a public transportation disability and (2) a work disability. The unique housing needs

and limited geographical distribution of Indian tribal populations require that assistance under the Indian housing program be allocated on a different basis from other programs. The formula makes explicit that these funds are to be allocated on the basis of the relative housing needs of the Indian population.

Section 791.403 Allocation of housing assistance

This section would be revised to provide a more detailed description of the formula for allocating assistance. Because the allocation of housing assistance falls within the jurisdiction of both the Assistant Secretary for Housing and the Assistant Secretary for Public and Indian Housing, a provision has been added to paragraph (a) to provide that they confer to determine how the available funds are to be allocated. Paragraph (a) would retain the current procedure of merging any carryover funds from previous year with newly appropriated funds to arrive at the total authority to be allocated, even though section 213(d)(1) only requires that HUD apply the allocation formula to the new appropriations. But only the aggregate of (1) newly appropriated funds which are available to be fair shared (including such amounts as are subsequently retained in the Headquarters Reserve) and (2) carryover funds from the previous year's fair share and from the Headquarters Reserve would be used to determine compliance with the metropolitan/nonmetropolitan requirement specified in paragraph (a). This is because the Reform Act's exclusion from the fair share formula of funding actions not capable of geographic allocation by formula similarly excepts such actions from the metropolitan/nonmetropolitan requirement.

The Headquarters Reserve would now be regulated in a new section, § 791.407. Because all of the other provisions in subpart D relate to funds allocated to the Field and in many cases, statutorily subject to competitive distribution, it is believed that a separate regulatory authority in a separate section in the Headquarters Reserve would be cleaner.

The total available authority is to be allocated in accordance with the two-step process in paragraph (b).

1. Budget authority for amendments, conversions and property disposition would continue to be allocated on an as-needed basis, in recognition of the fact that these funds are needed for specific conditions associated with existing projects. This category would be expanded in the proposed rule to include the purposes expressly recognized in the Reform Act: (1) Loan management assistance for projects with HUD-insured or HUD-held mortgages, (2) assistance contract renewals, (3) assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, and (4) assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of Public and Indian Housing.

The Department notes section 18(c)(3) of the United States Housing Act of 1987, which directs the Secretary of HUD, in allocating public housing development funding and section 8 moderate rehabilitation assistance, to give consideration to housing that replaces demolished public housing units in accordance with HUD-approved replacement housing plans. This same allocational purpose was also recognized in the Reform Act exceptions proposed here at § 791.403(b)(1).

The Reform Act listing of purposes which are incapable of geographic allocation is not all-inclusive. Accordingly, the reference in § 791.403(b)(1) to specific purposes following the standard of incapability of geographic allocation would include the statutory changes and those already contained in part 791, but would expressly not be limited to them. In this connection, the Department seeks public comment whether the listing should also include replacement housing mandated statutorily for homeownership conversions under section 21 of the United States Housing Act of 1937 or provided for homeownership conversions under section 5(h) of the same Act. While such replacement housing does not have the allocational directive to the Secretary for replacement housing contained in section 18(c)(3) (discussed in the following paragraph), such replacement housing needs would be difficult to predict on geographic terms since they will arise wherever homeownership conversions happen to be proposed and are approved.

In addition to the types of assistance formally expected from "fair sharing" by the Reform Act, there are special instances in which HUD program assistance is subject to separate allocational controls by express operation of law. One is the section 202 program for the handicapped, as amended in 1987, which authorizes the Secretary at section 202(h)(3)(A) to "adopt such distinct standards and procedures," for fund allocation "as the Secretary determines appropriate due to differences between housing for handicapped families and other housing assisted under this section." Second, the branch of the section 8 moderate rehabilitation designed for single room occupancy by homeless persons under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1437f) expressly calls for allocation on the basis of a national competition.

2. Remaining budget authority would be allocated in accordance with the relative housing needs of each Field Office, as determined under the provisions of § 791.402. If budget authority for a particular program is insufficient to fund feasible projects at the Field Office level, authority may be allocated to the Regional Office with no suballocation. In determining the smallest practicable area for allocations, in cases of programs in which resources are very limited in some Regions of small population, the rule would permit allocations to Regional Offices with such limited resources in a particular program and allocations in the same program to Field Offices where distribution down to the Field Office level still promotes meaningful competition. The decision to "fair share" to Regional Offices or further down to Field Offices, or further down to smaller allocation areas, for allocation to the "smallest practicable area" will be a function of each program. For example, tenant-based assistance will in most cases be suitable for allocation to Field Offices or smaller allocation areas, even in cases of small resources. Assistance for project-based programs, on the other hand, may require larger allocations to facilitate both the "meaningful competitive process" contemplated by the Reform Act and projects of feasible size. In this context, HUD experience has indicated that in cases where allocations are limited, small or minority sponsors of section 202 projects for the elderly can be inhibited from competing against larger sponsors because the likelihood of success is perceived to be small. Also, the Reform Act changed section 213(d) to require allocations in the section 202 program "for projects of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly residents."

Under proposed § 791.407, the Department could retain for the Headquarters Reserve up to five percent of the budget authority that becomes available for allocation under this second step. Although section 104 authorizes the five percent to be calculated on the total amount of funds that become available for allocation during the fiscal year, the proposed rule would limit the computation to five

percent of the incremental units, that is, the total amount of assistance which is "fair shared" by formula pursuant to § 791.403(b)(2).

Pursuant to section 102(a)(4)(D) of the Reform Act, HUD will publish in the Federal Register at least annually information regarding all "fair share" allocations.

Section 791.404 Allocation planning

The pertinent provisions of existing §§ 791.404 through 791.406 would be consolidated into this new section. A provision requiring that allocation areas be identical for all of the housing programs would be deleted as being unworkable when there are significant disparities in funding levels among programs. Specific references to allocating contract authority consistent with HAP goals and consulting with local governments and APOs that have developed areawide housing plans would be deleted, since these are no longer statutory requirements. Because the Department no longer funds set-asides for State housing agencies or the Farmers Home Administration, provisions governing consultations about such set-asides have been deleted. Paragraph (c) of this section would be revised to provide a more explicit description of the calculation of relative housing needs as the basis for determining the amount of budget authority to be allocated to each allocation area.

As noted above, the determination as to which HUD jurisdictional level to establish allocation areas will be a function of the size of the program and available resources. However, in order to accommodate the competitive requirements in section 213(d) added by the Reform Act, in all cases the allocation area must be one in which there will be at least three eligible applicants for the program assistance to be allocated. In this connection, the establishment of allocation areas will have to recognize operative statutory requirements which may not be contained in section 213(d). Most notable in this respect is section 8(u) of the Housing and Community Development Act of 1987, which requires that certificates or vouchers for residents of rental rehabilitation projects be made available to families who are required to move out of their units because of the physical rehabilitation activities or because of the overcrowding, and also requires that the Secretary allocate sufficient resources to address the physical or economic displacement, or potential economic displacement, or existing tenants. In order to make feasible the allocation of housing voucher assistance in geographic "fair shares" which incorporate the foregoing requirements for allocation of resources, projected rental rehabilitation demand for vouchers would have to be considered in the establishment of allocation areas. Once the funds were so allocated, the competition rules would prevail, but the specific selection criteria would address the above provisions and would strongly enhance a favorable competitive position consistent with the allocation policy of section 8(u)(3).

Paragraph (d), "Targeting for underfunding," would be removed. The fair share formula at § 791.403(b)(2) is designed with the express purpose of identifying area needs. To the extent a given locality has had relatively underfunded needs, such needs can be better and more efficiently addressed by the selection criteria established for the particular housing assistance program.

Section 791.405 Reallocations of budget authority

Paragraph (a)(2) would be amended to delete references to household type because designation of bedrooms is not made in the allocation. The application would contain the specific household type distribution. This gives localities more flexibility in meeting local needs and conforming to local existing housing configuration.

All references in this section to housing type would be removed since housing type conformance is no longer a key determinant of HAP performance and is no longer a pertinent consideration for reallocation policy.

In addition, all references in this section to exchanges of budget authority would be removed. Terminology of exchange is outmoded; there is now no function for exchanges that formerly occurred when all program resources were allocated to sub-Field Office allocation areas.

Paragraph (d) of this section would also be revised to remove a specific reference to reallocating available authority in accordance with HAPs, since this requirement has been deleted from section 213(d)(1), and to clarify that the requirement that budget authority be reallocated within the same State whenever possible is applicable without regard to the other requirements of this section.

Section 791.406 Competition

New § 791.406 would be added to incorporate the Reform Act requirements for competition with respect to all "fair shared" assistance. Such competition would be prescribed according to specific selection criteria contained in a regulation promulgated by the Secretary after notice and public comment or, to the extent authorized by law, in a notice published in the Federal Register.

Section 791.407 Headquarters Reserve

A new § 791.407 would be added to the regulation to implement the Reform Act provisions streamlining the Headquarters Reserve. In lieu of the existing regulation of the Headquarters Reserve at § 791.403(b), the new text would impose the statutory five percent limit on incremental unit assistance as the amount of funding that can be retained and would set out the four statutory categories of eligibility.

Each year the Department will undertake an early identification of estimated Headquarters Reserve funding for the fiscal year, with specific earmaking by the four statutory categories, which earmarks may subsequently be changed, as the need arises and as determined by the Secretary. To the extent the selection criteria would differ from those applicable to fair shared amounts under the same program, these selection criteria would be published in the Federal Register pursuant to section 102(a)(1)(C) of the Reform Act. HUD Field Offices would review applications for Headquarters Reserve funding and make recommendations to Headquarters for approval or rejection of the application. Such applications would generally be considered for funding on a first-come, first-served basis, subject to available funding for the identified statutory category.

Title 24 of the Code of Federal Regulations contains numerous references to part 791, section 213, area-wide housing opportunity plans, AHOPs, allocation areas, and other terms of art used in part 791. (For example, there are references to area-wide housing opportunity plans in §§ 883.202, 883.205, 883.302 and other regulations.) In addition, HUD's regulations contain several incorrect references to part 891 instead of part 791 (See § 881.101(g)). The Department intends to correct these references in the final rule.

V. Comments on Previous Rulemaking

As noted earlier, the Department received some comments on the 1982 interim rule which addressed the allocation process in subpart D of part 791. One commenter objected to the use of only housing needs factors in allocating housing assistance, arguing that the formula should also contain an "opportunity factor" such as employment or job growth. The

Department considered this suggestion in reviewing the allocation formula as outlined in this rule, but concluded that a factor that would attempt to assess future housing requirements would not be "objectively measurable", as required by the statutory language in section 213(d)(1).

One commenter recommended that more specific procedures for developing the Field Office allocation plan be included in the regulations, rather than in an annual notice that accompanies the assignment of funds to the Field Offices. We disagree, because we have found that shifts in the types of housing assistance being appropriated from one fiscal year to the next make it virtually impossible to develop useful regulatory guidance for more than one year. We have found it more expedient to provide the Field Offices with timely guidance on which housing types and program types are appropriate for the use of the available authority when they are notified of their allocation. Further, pursuant to section 102(a)(4)(D) of the Reform Act, the Secretary of HUD is required to publish in the **Federal Register** at least annually information regarding the allocation of all assistance to be "fair shared." This information will provide interested parties key information on the amount of assistance, by program, to be allocated to each Regional Office, Field Office, or smaller allocation area.

One commenter suggested that there was some ambiguity between the wording of § 791.404(c), which requires the field office allocate budget authority to each allocation area based upon a housing needs percentage, and § 791.404(d), which requires that, to the extent practicable, the Field Office target budget authority to localities whose needs have been underfunded in prior years relative to those of other localities in the same allocation area. While the Department recognizes the practical difficulties of targeting, we see no ambiguity in the way these two provisions are worded. Section 791.404(c) clearly applies to the allocation of housing assistance to an allocation, while § 791.404(d) refers to the targeting of that assistance to underfunded localities within the allocation area.

Finally, one commenter (an interstate APO) expressed concern that § 791.404(c) (§ 791.404(c) in this rule) would not permit the reallocation of budget authority to another locality that is within the same allocation area, but is part of another State. The commenter recommended that HUD propose a legislative change to clarify this situation. The Department's position is that authority allocated to an allocation area (even one which contains portions of several States) is not "reallocated" when it is used elsewhere within the same allocation area. Only when the authority is transferred to another allocation area does a reallocation of authority occur. Therefore, there is no need for a statutory amendment.

VI. Findings and Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection btween 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations, issued on February 17, 1981. Analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule revises existing procedures for the allocation of housing assistance funds and for local government and HUD review of applications for housing assistance, but would make no change in the economic impact of these procedures on small entities.

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that the policies contained in this rule do not have a potential significant impact on family formation, maintenance, and general well-being and, thus, are not subject to review under the Order. The rule does not affect the terms and conditions under which a family may qualify for assistance under the Certificate Program.

The General Counsel has also determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that the policies contained in this rule do not have federalism implications and, therefore, are not subject to review under that Order. This rule would not substantially alter the established roles of HUD and the States and local governments, including PHAs, in administering the affected programs.

There are no new information collection requirements contained in this rule. The written notification concerning Housing Assistance Plan consistency provided by local governments under the provisions of § 791.204 is an integral part of the application review and approval process of each of the housing assistance programs covered by part 791. Its purpose is to confirm information supplied by the applicant in completing an application under one of the following OMB control numbers: 2502–0123, 2502–0232, 2502–0318, or 2577–0033.

The information collection requirements contained in § 791.204 have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Pending approval of these collection of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements.

Public reporting burden for the collections of information in § 791.204 is estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the documents making up the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., room 10276, Washington, DC 20410, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503.

In accordance with 5 CFR 1320.21, the following table discloses the Department's estimated burden for each of the collections of information in this rule.

Reg. section	Paperwork requirement	No. of hours per response	No. of respond-ents	Reporting hours
791.204	Local government response to applications for housing assistance			
	Section 202 Program	2	140	280
	Section 8 Certificates and Housing Vouchers	2	240	480
	Total for Office of the Assistant Secretary for Housing	2	380	760
	Public and Indian Housing Programs	1	1,850	1,850
	Combined total	1.17	2,230	2,610

This rule was listed as item number 1121 in the Department's Semiannual Agenda of Regulations, published on April 23, 1990 (55 FR 16226, 16234) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

The programs in the Catalogue of Federal Domestic Assistance which would be affected by this rule are as follows:

14.103 Interest Reduction Payments—Rental and Cooperative Housing for Lower Income Families
14.149 Rent Supplements—Rental Housing for Lower Income Families
14.156 Lower Income Housing Assistance Program (Section 8)
14.157 Housing for the Elderly or Handicapped
14.177 Housing Voucher Program
14.850 Public and Indian Housing
14.851 Low Income Housing—Homeownership Opportunities for Low Income Families

List of Subjects in 24 CFR Part 791

Grant programs: housing and community development; Intergovernmental relations; Housing.

Accordingly, 24 CFR part 791 is proposed to be amended as follows:

PART 791—REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS

1. The table of contents of part 791 would be amended by adding subpart D to read as follows:

Subpart D—Allocation of Budget Authority for Housing Assistance

791.401 General.
791.402 Determination of lower income housing needs.
791.403 Allocation of housing assistance.
791.404 Field Office allocation plan.
791.405 Reallocations of budget authority.
791.406 Competition.
791.407 Headquarters Reserve.

1a. The authority citation for part 791 would continue to read as follows:

Authority: Sec. 213, Housing and Community Development Act of 1974, 42 U.S.C. 1439; sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

2. Section 791.101 would be revised to read as follows:

§ 791.101 Applicability and scope.

(a) This part describes the roles and responsibilities of HUD and local governments under section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1437). It applies to the allocation of budget and loan authority, and the review and approval of applications for housing assistance under the United States Housing Act of 1937 (42 U.S.C. 1437–1437q), section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and section 202 of the Housing Act of 1959 (12 U.S.C. 1710q), except as follows:

(1) This part does not apply to programs for public housing operating subsidy, public housing modernization, or rental rehabilitation grant assistance under section 9, 14, or 17 of the United States Housing Act of 1937; and

(2) Subpart D of this part does not apply to the allocation of budget authority for housing development grant assistance under section 17 of the U.S. Housing Act of 1937.

(b) HUD and local government reviews of applications for housing assistance shall be based upon applicable housing assistance plans (HAPs) or comparable estimates of need for non-HAP areas. The three-year goals and preferences in the HAP apply to the fiscal year in which they are initially approved and the two succeeding fiscal years.

3. In § 791.102, the definitions of "Areawide housing plan", "Areawide planning organization (APO)", "Contract authority", "FmHA", and "SMSA" would be removed, and new or revised definitions of "Application for housing assistance", "Assistance Secretary", "Field Office Manager", "Housing assistance plan (HAP)", "Housing type", "Metropolitan area", and "MSA" would be inserted in alphabetical order, to read as follows:

§ 791.102 Definitions.

* * * * *

Application for housing assistance. The first submission to HUD for housing assistance under one of the programs identified in § 791.101(a). For the purposes of this part, the term includes an application, a preliminary proposal, or a proposal, so long as it meets the applicable program regulations. For the public housing and State agency programs, the first application identifying a project site will be considered the application for housing assistance.

Assistant Secretary. The Assistant Secretary for Housing or the Assistant Secretary for Public and Indian Housing, as appropriate to the housing assistance under consideration.

* * * * *

Field Office Manager. The Manager of a HUD Field Office which has been delegated the responsibility of allocating housing assistance and reviewing applications for housing assistance. The term also means the Regional Administrator of a HUD Regional Office, and references to Field Offices shall also mean Regional Offices, in cases where the Regional Office performs

Field Office functions in its co-location capacity or Regional Office jurisdictions are established as allocation areas for particular housing programs.

* * * * *

Housing assistance plan (HAP). A local housing assistance plan approved by HUD and meeting the requirements of 24 CFR 570.306.

Housing type. The three housing types are: new construction, rehabilitation, and existing housing.

* * * * *

Metropolitan area. See MSA.

MSA. A metropolitan statistical area established by the Office of Management and Budget. The term also includes primary metropolitan statistical areas (PMSAs), which are the component parts of larger urbanized areas designated as consolidated metropolitan statistical areas (CMSAs). Where an MSA is divided among two or more Field Offices, references to an MSA mean the portion of the MSA within the Field Office jurisdication.

* * * * *

4. In § 791.202, paragraphs (a)(4), (b)(2), and (b)(5) would be revised to read as follows:

§ 791.202 Notification of local government.

(a) * * *

(4) For a Section 8 existing housing or moderate rehabilitation application submitted in accordance with 24 CFR part 882 or part 887, the Field Office shall notify the chief executive officers of the localities that are identified in the application as:

(i) Primary areas from which households to be assisted under the existing housing program will be drawn, or

(ii) Primary areas in which units will be rehabilitated under the moderate rehabilitation program.

* * * * *

(b) * * *

(2) Indicate whether the number of units in the application, when taken together with other applications previously approved, would exceed the three-year household type goals and housing type preferences in the HAP.

* * * * *

(5) Indicate that, where there is no objection to the approval of the application despite an inconsistency with the approved HAP, the local government must submit the additional documentation required under § 791.204.

* * * * *

5. In § 791.204, paragraph (a), the introductory language in paragraph (b), and paragraph (b)(1) would be revised to read as follows:

§ 791.204 Local government response.

(a) *No objection.* If the local government has no objection to an application for housing assistance, the chief executive officer may provide written notification of this determination during the 30-day comment period. Where the local government determines that the application is inconsistent with the approved HAP or is likely to result in a disproportionate achievement of HAP goals, the chief executive officer shall submit the following additional documentation during the 30-day comment period:

(1) If the number of units in the application, taken together with other applications previously approved, would exceed the three-year household type goals in the HAP by no more than 20 percent, the chief executive officer shall submit a written statement indicating that:

(i) There is a need for the housing assistance being proposed;

(ii) There is no objection on the part of the local government to the approval of the application; and

(iii) Where the application is for newly constructed or substantially rehabilitated housing, there are or will be available sufficient public facilities and services in the area to serve the housing being proposed.

(2) If the number of units in the application, taken together with other applications previously approved, would exceed the three-year household type goals in the HAP by more than 20 percent, the local government shall submit a HAP amendment increasing the household type goals to include the proposed project.

(3) If the locality is in the second or third year of its HAP and the number of units in the application, taken together with other applications previously approved, would make it unlikely that the housing assistance provided during the three-year period would be proportional to the three-year household type goals in the HAP, the local government shall submit a HAP amendment in accordance with 24 CFR 570.306(e)(3)(vi).

(4) If an application for newly constructed or substantially rehabilitated units is in a location which is not within the general locations specified in the HAP, the local government shall submit a HAP amendment revising the general locations to include the proposed project.

(b) *Objection.* If the local government objects to an application for housing assistance based upon its inconsistency with the approved HAP, the chief executive officer may submit a written objection to the Field Office at any time during the 30-day comment period. The objection may be for one or more of the following reasons:

(1) The proposed number of units, when taken together with other applications previously approved, would exceed the three-year household type goals or housing type preferences in the HAP.

* * * * *

6. In § 791.205, paragraph (c) would be revised to read as follows:

§ 791.205 HUD review of applications for housing assistance.

* * * * *

(c) *Review criteria.* The Field Office shall assure that, to the maximum extent practicable, an application for housing assistance meets the housing needs and goals identified in the approved HAP. The Field Office shall approve only those applications that are consistent with the following criteria:

(1) The Field Office may not approve an application which, taken together with other applications previously approved, would:

(i) Exceed the three-year household type goals in the HAP by no more than 20 percent, unless the chief executive officer of the local government submits a written statement as specified in § 791.204(a)(1), and approval of the application is necessary to obtain a project of feasible size, meet an urgent or unforeseen need (*e.g.*, displacement due to a natural disaster), or use residual budget authority allocated to that allocation area;

(ii) Exceed the three-year household type goals in the HAP by more than 20 percent, unless the local government submits, and the Field Office approves, a HAP amendment increasing the household type goals to include the proposed project;

(iii) Make it unlikely that the housing assistance provided during the three-year period would be proportional to the three-year household type goals in the HAP, unless the locality is in the second or third year of its HAP and the local government submits and the Field Office approves a HAP amendment in accordance with 24 CFR 570.306(e)(3)(vi); or

(iv) Exceed the three-year housing type preferences in the HAP, if the local government has submitted a written objection in accordance with § 791.204(b).

(2) The Field Office may not approve an application for newly constructed or substantially rehabilitated units in a location that is not within the general locations specified in the HAP, unless

the local government submits and the Field Office approves, a HAP amendment revising the general locations to include the proposed project. Such amendment may be limited to the specific project site.

(3) The Field Office may approve an application for assistance under 24 CFR part 886 without regard to variations from the three-year household type goals and housing type preferences in the HAP.

(4) The Field Office may approve an application for section 8 assistance without regard to variations from the three-year goals and housing type preferences in HAP, where such assistance is used as a legally necessary substitution or replacement for already assisted housing.

(5) Notwithstanding the other provisions of this subpart, where the local government is required to emphasize a particular household type because it had proportionally underserved that household type in providing assisted housing under a previous HAP, the Field Office may not approve an application which exceeds the three-year HAP goals for other household types until the requirement has been met.

§ 791.206 [Removed]

7. Section 791.206 would be removed.

§ 791.207 [Redesignated as § 791.206]

7a. § 791.207 would be redesignated as § 791.206.

8. In § 791.303, the introductory language in paragraph (a)(3) would be revised to read as follows:

§ 791.303 Notification of local government.

* * * * *

(a) * * *

(3) For a Section 8 existing housing or moderate rehabilitation application submitted in accordance with 24 CFR part 882 or part 887, the Field Office shall notify the chief executive officers of the localities that are identified in the application as:

* * * * *

9. Subpart D would be revised to read as follows:

Subpart D—Allocation of Budget Authority for Housing Assistance

§ 791.401 General.

This subpart establishes the procedures for allocating budget authority under section 213(d) of the Act for the programs identified in § 791.101(a). It describes the allocation of budget authority by the appropriate Assistant Secretary to the Regional Administrators or directly to the Field Office Managers, by the Regional Administrators to the Field Office Managers, and by the Field Office Managers to allocation areas within their jurisdiction. References in this subpart to allocation of budget authority also apply to loan authority for the Section 202 program; references to budget authority mean (as appropriate) grant authority for the Public and Indian Housing program.

§ 791.402 Determination of lower income housing needs.

(a) Before budget authority is allocated, the Assistant Secretary for Policy Development and Research shall determine the relative need for lower income housing assistance in each HUD Field Office jurisdiction. This determination shall be based upon data from the most recent, available decennial census and, where appropriate, upon more recent data from the Bureau of the Census or other Federal agencies, or from the American Housing Survey.

(b) Except for paragraphs (c) and (d) of this section, the factors used to determine the relative need for assistance shall be based upon the following criteria:

(1) *Population.* The renter population;

(2) *Poverty.* The number of renter households with annual incomes at or below the poverty level, as defined by the Bureau of the Census;

(3) *Housing overcrowding.* The number of renter-occupied housing units with an occupancy ratio of 1.01 or more persons per room;

(4) *Housing vacancies.* The number of renter housing units that would be required to maintain vacancies at levels typical of balanced market conditions;

(5) *Substandard housing.* The number of housing units built before 1940 and occupied by renter households with annual incomes at or below the poverty level, as defined by the Bureau of the Census; and,

(6) *Other objectively measurable conditions.* Data indicating potential need for rental housing assistance, such as the number of renter households with incomes below specified levels and paying a gross rent of more than 30 percent of household income.

(c)(1) For the Section 202 elderly program, the data used shall reflect relevant characteristics of the elderly population. The data shall use the criteria specified in paragraph (b) (1) and (6) of this section, as modified to apply specifically to the needs of the elderly population.

(2) Budget authority for the Indian housing program under 24 CFR part 905 shall be allocated on the basis of the relative housing needs of the Indian tribal population, as measured by the Bureau of Indian Affairs, and by data for non-BIA recognized groups served by the Indian housing program.

(d) Based on the criteria in paragraphs (b) and (c) (1), the Assistant Secretary for Policy Development and Research shall establish housing needs factors for each county and independent city in the Field Office jurisdiction, and shall aggregate the factors into metropolitan and nonmetropolitan totals for the Field Office. The Field Office total for each metropolitan and nonmetropolitan factor is then divided by the respective national total for that factor. The resulting housing needs ratios under paragraph (b) of this section are then weighted to provide metropolitan and nonmetropolitan housing needs percentages for each Field Office, using the following weights: population, 20 percent; poverty, 20 percent; housing overcrowding, 10 percent; housing vacancies, 10 percent; substandard housing, 20 percent; other objectively measurable conditions, 20 percent. For the Section 202 elderly program, the two criteria described in paragraph (c)(1) of this section are weighted equally.

(e) The Assistant Secretary for Policy Development and Research shall adjust the housing needs percentages derived in paragraph (d) to reflect the relative cost of providing housing among the Field Office jurisdictions.

§ 791.403 Allocation of housing assistance.

(a) The Assistant Secretary for Housing and the Assistant Secretary for Public and Indian Housing shall confer to determine how the available budget authority is to be allocated. The total budget authority available for any fiscal year shall be determined by adding any available, unreserved budget authority from prior fiscal years to any newly appropriated budget authority for each housing program. On a nationwide basis, at least 20 percent, but not more than 25 percent, of the total budget authority available for any fiscal year, which is allocated pursuant to paragraph (b)(2) of this section and any amounts which are retained pursuant to § 791.407, shall be allocated for use in nonmetropolitan areas.

(b) Budget authority available for the fiscal year, except for that retained pursuant to § 791.407, shall be allocated to the Field Offices as follows:

(1) Budget authority shall be allocated as needed for uses that the Secretary determines are incapable of geographic allocation by formula, including but not limited to amendments of existing

contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public and Indian housing, and assistance in support of the property disposition and loan management functions of the Secretary.

(2) Budget authority remaining after carrying out allocation steps outlined in paragraph (b)(1) of this section shall be allocated in accordance with the housing needs percentages calculated under § 791.402(b), (c), and (d). If the budget authority for a particular program is insufficient to fund feasible projects, or to promote meaningful competition, at the Field Office level, authority may be allocated to the Regional Office with no requirement for suballocation. Alternatively, where the level of available program resources would permit meaningful competition at the Field Office level in some Regions and not in others, the budget authority for the given program may be so allocated among Field and Regional Offices.

(c) At least annually HUD will publish a notice in the **Federal Register** informing the public of all allocations under § 791.403(b)(2).

§ 791.404 Field Office allocation planning.

(a) *General objective.* The allocation planning process should provide for the equitable distribution of available budget authority, consistent with the relative housing needs of each allocation area within the Field Office jurisdiction.

(b) *Establishing allocation areas.* Allocation areas, consisting of one or more counties or independent cities, shall be established by the Field Office in accordance with the following criteria:

(1) Each allocation area shall be to the smallest practicable area, but of sufficient size so that at least three eligible entities are viable competitors for funds in the allocation area, and so that all applicable statutory requirements can be met. (It is expected that in many instances individual MSAs will be established as metropolitan allocation areas.) For the section 202 program for the elderly, the allocation area must include sufficient units to promote a meaningful competition among disparate types of providers of such housing (e.g., local as well as national sponsors, minority as well as non-minority sponsors).

(2) Each allocation area shall also be of sufficient size, in terms of population and housing need, that the amount of budget authority being allocated to the area will support at least one feasible program or project.

(3) In establishing allocation areas, counties and independent cities within MSA should not be combined with counties that are not in MSAs.

(c) *Determining the amount of budget authority.* Where the Field Office establishes more than one allocation area, it shall determine the amount of budget authority to be allocated to each allocation area, based upon a housing needs percentage which represents the needs of that area relative to the needs of the metropolitan or nonmetropolitan portion of the Field Office jurisdiction, whichever is appropriate. For each program, a composite housing needs percentage developed under § 791.402 for those counties and independent cities comprising the allocation area shall be aggregated into allocation area totals.

(d) *Planning for the allocation.* The Field Office should develop an allocation plan which reflects the amount of budget authority determined for each allocation area in paragraph (c). The plan should include a map or maps clearly showing the allocation areas within the Field Office jurisdiction. The relative share of budget authority by individual program type need not be the same for each allocation area, so long as the total amount of budget authority made available to the allocation area is not significantly reduced.

§ 791.405 Reallocations of budget authority.

(a) The Field Office shall make every reasonable effort to use the budget authority made available for each allocation area within such area. If the Field Office Manager determines that not all of the budget authority allocated for a particular allocation area is likely to be used during the fiscal year, the remaining authority may be allocated to other allocation areas where it is likely to be used during that fiscal year.

(b) If the Regional Administrator or the Assistant Secretary determines that not all of the budget authority allocated to a Field Office is likely to be used during the fiscal year, the remaining authority may be reallocated to another Field Office where it is likely to be used during that fiscal year. Only the Assistant Secretary may reallocate budget authority among Regions. The Assistant Secretary shall approve reallocations among States.

(c) Any reallocations of budget authority among allocation areas, Field Offices, or Regions shall be consistent with the assignment of budget authority for the specific program type and established set-asides.

(d) Notwithstanding the requirements of paragraphs (a) through (c) of this section, budget authority shall not be reallocated for use in another State unless the Field Office Manager, the Regional Administrator, or the Assistant Secretary has determined that other allocation areas within the same State cannot use the available authority during the fiscal year.

§ 791.406 Competition.

(a) All budget authority allocated pursuant to § 791.403(b)(2) shall be reserved and obligated pursuant to a competition. Any such competition shall be conducted pursuant to specific criteria for the selection of recipients of assistance. These criteria shall be contained in a regulation promulgated after notice and public comment or, to the extent authorized by law, a notice published in the **Federal Register**.

(b) This section shall not apply to assistance referred to in § 791.403(b)(1) and § 791.407.

§ 791.407 Headquarters Reserve.

(a) A portion of the budget authority available for the housing programs listed in § 791.101(a), not to exceed five percent of the total amount of budget authority available under § 791.403(b)(2), may be retained by the Assistant Secretary for subsequent allocation to specific areas and communities, and may only be used for:

(1) Unforeseen housing needs resulting from natural and other disasters, including hurricanes, tornados, storms, high water, winddriven water, tidal waves, tsunamis, earthquakes, volcanic eruptions, landslides, mudslides, snowstorms, drought, fires, floods, or explosions, which in the determination of the Secretary cause damage of sufficient severity and magnitude to warrant Federal housing assistance;

(2) Housing needs resulting from emergencies, as certified by the Secretary, other than disasters described in paragraph (a)(1) of this section. Emergency housing needs that can be certified are only those that result from unpredictable and sudden circumstances causing housing deprivation (such as physical displacement, loss of Federal rental assistance, or substandard housing conditions) or causing an unforeseen and significant increase in lower income housing demand in a housing market

(such as influx of refugees or plant closings);

(3) Housing needs resulting from the settlement of litigation; and

(4) Housing in support of desegregation efforts.

(b) Applications for funds retained under paragraph (a) of this section shall be made to the Field Office, which will make recommendations to Headquarters for approval or rejection of the application. Applications generally will be considered for funding on a first-come, first-served basis. Specific instructions governing access to the Headquarters Reserve shall be published by Notice in the **Federal Register**, as necessary.

(c) Any amounts retained in any fiscal year under paragraph (a) of this section that are not reserved by the end of such fiscal year shall remain available for the following fiscal year under the program under § 791.101(a) from which the amount was retained. Such amounts shall be allocated pursuant to § 791.403(b)(2).

Dated: May 31, 1990.

Jack Kemp,

Secretary.

[FR Doc. 90-13354 Filed 6-8-90; 8:45 am]

BILLING CODE 4210-32-M

federal register

Monday
June 11, 1990

Part V

Department of Housing and Urban Development

Office of the Secretary for Housing—Federal Housing Commissioner

Section 8 Certificate Program and Housing Voucher Program; Notice of Funding Availability for FY 1990 and Procedures for Allocating Funds and Approving PHA Applications

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary for Housing—Federal Housing Commissioner

[Docket No. N-90-3073; FR-2760-N-01]

Section 8 Certificate Program and Housing Voucher Program; Notice of Funding Availability for FY 1990 and Procedures for Allocating Funds and Approving PHA Applications

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability for FY 1990 and procedures for allocating funds and approving PHA applications.

SUMMARY: This notice identifies the amount of housing assistance budget authority for incremental housing vouchers and certificates available for HUD-established allocation areas (i.e., housing markets) during Fiscal Year 1990. This notice also invites Public Housing Agencies (PHAs), including Indian Housing Authorities, to submit applications for housing assistance funds and provides instructions to PHAs governing the submission of applications, and describes procedures for rating, ranking, and approval of PHA applications. The purpose of the Housing Voucher and the Certificate Programs is to assist eligible families to pay the rent for decent, safe, and sanitary housing.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–0720. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 and have been assigned OMB Control Number 2502–0123.

Public reporting burden for this collection of information is estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the documents making up the collection of information. Information on the estimated public reporting burden is provided elsewhere in this document. Information on the burden hours for these requirements is provided as follows: Form HUD–52515, number of responses, 1,000; hours per response, 4; total burden hours 4,000. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

1. Purpose

This Notice of Funding Availability:

(a) Identifies the amount of housing assistance budget authority for incremental housing vouchers and certificates available for HUD-established allocation areas (i.e., housing markets) during Fiscal Year 1990; and

(b) Invites Public Housing Agencies (PHAs), including Indian Housing Authorities, to submit applications for these housing assistance funds and provides instructions to PHAs governing the submission of applications, and describes procedures for rating, ranking, and approval of PHA applications.

2. Applicability

The procedures set forth in this notice apply to PHA applications submitted for funding for incremental units allocated under this notice for the Housing Voucher Program and the Certificate Program during Fiscal Year 1990.

3. Background

(a) The regulations governing the Housing Voucher Program and the Certificate Program are published at 24 CFR 887 and 24 CFR 882. The regulations for allocation of housing assistance budget authority are published at 24 CFR 791.

(b) The Department of Housing and Urban Development (HUD) Reform Act of 1989 establishes additional requirements governing the use of housing assistance budget authority in Fiscal Year 1990.

4. Initial Fund Allocations

(a) *Housing needs formula.* Approximately $1.5 billion of budget authority available for incremental housing vouchers and certificates is being allocated to HUD Field Offices and allocation areas using the housing needs factors established in accordance with 24 CFR 791.402.

(b) *Metropolitan-Nonmetropolitan mix.* Separate housing needs factors were developed for the metropolitan and nonmetropolitan portions of each Field Office jurisdiction. On a nationwide basis, approximately 22 percent of the Fiscal Year 1990 budget authority for Certificate Program and Housing Voucher Program incremental units are designated for nonmetropolitan areas. The nonmetropolitan housing needs factors were applied to the housing assistance budget authority available for use in nonmetropolitan areas, and metropolitan housing needs factors were applied to the housing assistance budget authority available for use in metropolitan areas.

(c) *Allocation areas.* The Field Offices are to allocate budget authority to metropolitan and nonmetropolitan allocation areas, as required by 24 CFR part 791. The allocation areas are established to ensure sufficient competition among PHAs (including State and regional or multi-county PHAs) operating housing programs within the HUD-established allocation areas. The formula allocation for each allocation area should support at least 50 units and there should be at least three PHAs with satisfactory administrative capability in the allocation area to ensure meaningful competition.

(d) *Program type.* This notice announces a separate allocation of housing assistance budget authority for the Housing Voucher Program and for the Certificate Program to each Field Office designated allocation areas, based on the housing needs factors. The allocation of housing assistance budget authority to each allocation area, however, is a total for both programs. The allocations have been structured to give Field Offices flexibility in approving PHA applications for a specific program type. It is not necessary that each allocation area within a Field Office be provided both housing vouchers and certificates. This notice also provides, for each allocation area, an estimate of the total number of housing vouchers and certificates that could be funded from the housing assistance available in the allocation area. These estimates are based on the average fair market rents for two-bedroom units in the Field Office's jurisdiction and assume a 56 percent Certificate Program and a 44 percent Housing Voucher Program mix. These percentages reflect the nationwide funding for each of these Programs. The actual number of units assisted will vary from these estimates because of differences in the actual bedroom size

mix and the actual mix of housing vouchers and certificates that are funded in a given allocation area.

5. Rental Rehabilitation Program Obligations

(a) For lower income families living in units rehabilitated under the Rental Rehabilitation Program (24 CFR part 511), section 8(u) of the United States Housing Act of 1937 requires that:

(1) Certificates or housing vouchers shall be made available for families who are required to move out of their units because of physical rehabilitation activities or because of overcrowding;

(2) At the discretion of the PHA, certificates or housing vouchers may be made available for families who would have to pay more than 30 percent of adjusted income for rent after rehabilitation whether they choose to remain in or move from the project; and

(3) HUD shall allocate certificates or housing vouchers to ensure that sufficient resources are available to address the physical or economic displacement or potential economic displacement of tenants living in rental rehabilitation projects.

(b) The HUD-Independent Agencies Appropriations Act for Fiscal Year 1990 (Pub. L. 101–144, approved November 9, 1989) requires that highest priority for incremental housing vouchers shall be given to families who, as a result of rental rehabilitation actions, are involuntarily displaced or are or would be displaced as a consequence of increased rents (i.e., rent burden exceeds 35 percent of adjusted income).

(c) *Determining Rental Rehabilitation Assistance Needed:* In determining the minimum number of certificates or housing vouchers to allocate to a PHA, Field Office staff must first determine the total number of certificates and housing vouchers needed during Fiscal Year 1990 for families affected by rental rehabilitation activities and the amount of such housing assistance available to the PHA without additional funding. In reviewing the amount of assistance available to a PHA for rental rehabilitation families, the Field Office staff must make certain that the PHA has enough certificates for lower income families who are affected by rental rehabilitation activities, but who are not eligible for housing vouchers. The Field Office will determine the minimum amount of assistance to be provided to a PHA during Fiscal Year 1990 as follows:

(1) Identify the rental rehabilitation projects to be completed by December 1990 and identify the number of eligible families living in the projects that will be physically displaced (i.e., forced to vacate a unit because of physical construction, housing overcrowding, or a change in use of the unit as a result of rental rehabilitation activities) or whose rent would be more than 30 percent of income as a result of rental rehabilitation activities. Families whose incomes are between 50 percent and 80 percent of median income and whose rent after rehabilitation would be more than 30 percent of their adjusted income, but who are not physically displaced, are ineligible for housing vouchers. Because certificates must be made available to these lower income families, these families should also be identified.

(2) From the number of eligible families affected by rental rehabilitation activities, subtract the number of housing vouchers and certificates under ACC, but not issued to families. Do not include any special allocations of certificates and housing vouchers which were provided by HUD to be used for special purposes such as optouts, renewals, or desegregation of public housing projects.

(3) From the amount determined in paragraph (2), above, subtract the number of certificates and housing vouchers that are expected to turn over (i.e., those housing vouchers or certificates that are expected to be available for reissuance) during Fiscal Year 1990. The number of certificates approved by HUD for use in connection with project-based assistance should also be subtracted.

(4) The remainder, computed in accordance with the above, equals the minimum number of housing vouchers or certificates to be made available to the PHA during Fiscal Year 1990.

6. Invitation for PHA Applications

All PHAs are invited by this notice to submit applications for the Housing Voucher Program (24 CFR part 887) and the Certificate Program (24 CFR part 882). PHA applications must be submitted to the local Field Office on Form HUD–52515 in accordance with the applicable program regulations. The PHA application must identify the number of housing vouchers and certificates requested for families living in rental rehabilitation projects, operation bootstrap,[1] the homeless, or other uses and include an explanation of how the application meets, or will meet, the application selection criteria. The exhibit published at the end of this notice lists the allocation areas and the number of units and budget authority available for each allocation area. PHAs should limit their applications to a reasonable number of certificates and housing vouchers based on the capacity of the PHA to lease all of the units within 12 months of ACC execution. The number of units on the PHA application should not exceed the greater of: (a) ten (10) percent of the total housing vouchers and certificates under ACC for the PHA; or (b) 50 units. An application may exceed this limit only if the PHA cannot, within this limit, meet the needs of families affected by rental rehabilitation activities under paragraph 8.(d)(2).

Certification Regarding Drug-Free Workplace

The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide drug-free workplaces. Thus, each PHA must certify that it will comply with the drug-free workplace requirements in accordance with 24 CFR part 24, subpart F. (There is no standard form for this certification.)

Certification Regarding Lobbying

Section 319 of the Department of the Interior Appropriations Act, Public Law 101–121, approved October 23, 1989, (31 U.S.C. 1352) generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. On February 26, 1990, at 55 FR 6736, the Department and other affected Federal agencies published an interim final rule to implement section 319. The Department's regulations on these new restrictions on lobbying are codified at 24 CFR part 87 (see 55 FR at 6750). To comply with 24 CFR 87.110 (see 55 FR at 6739), any PHA applying under this NOFA for more than $100,000 of assistance must submit the certification set out in appendix A of part 87 (see 55 FR at 6743) and, if required by part 87, must submit the disclosure form set out in appendix B of part 87 (see 55 FR at 6745). Substantial penalties may be imposed for failure to file the required certification or disclosure (see § 87.400, 55 FR at 6740). Standard certification and disclosure language is attached to Notice H 90–27 (HUD), OMB's Guidance on New Government-Wide Restrictions on Lobbying, issued April 13, 1990.

[1] Operation bootstrap is a local program coordinating certificates and housing vouchers with public and private resources to enable families to achieve economic independence (see 54 FR 25426, June 14, 1989).

7. Application Deadline

PHA applications must be received in the HUD Field Office by 3:00 p.m. local time on July 26, 1990.

8. Application Rating and Selection Procedures

(a) *Initial Screening.* To be eligible for processing, a complete application must be received by the Field Office within the time period specified in this notice. HUD will reject any application and supplemental information received after the deadline. Furthermore, the applications will be screened and will not be accepted for further processing if one or more of the following conditions exist:

(1) The PHA application does not comply with the requirements of 24 CFR 882.204(a) or 887.55(b) and this notice, including the drug-free workplace certification and the antilobbying certification and disclosure requirements;

(2) The PHA has been notified that it is not eligible for new funding due to identified FHEO violations and the PHA has not taken corrective actions acceptable to HUD;

(3) The PHA has serious unaddressed, outstanding Inspector General audit findings or Field Office management review findings for any of its Section 8 housing voucher programs or certificate programs;

(4) The leasing rate for certificates and housing vouchers under ACC for at least one year is less than 75 percent;

(5) The PHA is involved in litigation which will seriously impede the ability of the PHA to administer the additional increment of housing vouchers and certificates.

(b) *Unacceptable Applications.* The Field Office will disapprove PHA applications that it determines, under paragraph (a) above, are not acceptable for processing. The Field Office letter must state the basis for the Field Office decision.

(c) *Local Government Comments.* The Field Office will obtain section 213 comments from the unit of general local government which must be considered before an application can be approved.

(d) *Review of Applications.* (1) *General.* To provide each applicant a fair and equitable opportunity to receive Fiscal Year 1990 housing vouchers and certificates, Field Offices will use the objective selection criteria stated in this notice to rate, within each allocation area, all applications found acceptable for further processing. After the Field Office has determined, under paragraph (2) below, the number of housing vouchers and certificates required for families affected by rental rehabilitation activities, if any incremental assistance remains available within an allocation area, the Field Office will rate and rank all applications with respect to assistance sought for families other than families affected by rental rehabilitation activities. The Field Office will use selection criteria 1 through 5 in paragraph (3) below to rate and rank those applications.

(2) *Applications for families living in Rental Rehabilitation Projects.* The Field Office will identify the number of units in each application needed for—

(i) Families that will be physically displaced from units to be rehabilitated under the Rental Rehabilitation Program (24 CFR Part 511); and

(ii) Families who would have to pay more than 30% of adjusted income for rent as a result of rental rehabilitation activities.

The Field Office will compare the PHA estimate and the Field Office estimate developed in accordance with the procedures identified in paragraph 5. The Field Office estimate shall be used unless it is clear that the Field Office estimates are incorrect.

(3) *Applications for families other than families living in Rental Rehabilitation Projects.* (i) *Selection Criterion 1: PHA Administrative Capability (32 points).* (A) *Criteria:* Overall PHA ability as evidenced by factors such as leasing rates and correct administration of housing quality standards, tenant rent computation and rent reasonableness requirements.

(B) *Rating: 32 points.* Field Office rates overall PHA administration of the Section 8 Existing Housing Program as excellent; there are no serious outstanding Section 8 management review or Inspector General audit findings; *and* the leasing rate for certificates and housing vouchers under ACC for one year was at least 95% as of September 30, 1989;

20 points. Field Office rates overall PHA administration of the Section 8 Existing Housing Program as good; any Section 8 management review or Inspector General audit findings are being satisfactorily addressed; *and* the leasing rate for certificates and housing vouchers under ACC for one year was at least 90% as of September 30, 1989;

10 points. Field Office rates overall PHA administration of the Section 8 Existing Housing Program as good; any Section 8 management review or Inspector General audit findings are being satisfactorily addressed; *and* the leasing rate for certificates and housing vouchers under ACC for one year was at least 85% as of September 30, 1989;

0 points. If none of the above statements applies, assign 0 points.

(ii) *Selection Criterion 2: Underfunding of Housing Needs (25 points).*

(A) *Criteria:* The degree to which the housing needs of the area specified in the PHA's application have previously been underfunded relative to the needs of other localities within the allocation area, taking into account such factors as the number of assisted housing units, the number of very low income renter households eligible for such assistance, and the degree of economic distress in the area. The Field Office will if possible, consider program experience in all federally assisted rental housing programs, including the FmHA Section 515 Rural Rental program, but will, as a minimum, consider experience under the Certificate Program, the Housing Voucher Program, other Section 8 Programs, and the Public Housing Program.

(B(1) *Rating: Underfunded Assisted Housing (20 points).* The Field Office will make judgments whether housing needs in the community or communities specified in the application have been underfunded with respect to assisted housing provided to other communities in the allocation area.

20 points. Housing needs in the area(s) specified in the application have been severely underfunded.

10 points. Housing needs in the area(s) specified in the application have been moderately underfunded.

0 points. Housing needs in the area(s) specified in the application have received a proportionate share of funding or have been overfunded.

(2) *Rating: Economic Distress (5 points):* The percentage of persons with incomes below the poverty threshold in the area specified in the application is greater than the percentage of persons with incomes below the poverty level in the allocation area. Assignment of points is to be based on the following table, using a ratio described below:

5 points. Poverty-based ratio of 2.0 or greater

4 points. Poverty-based ratio of 1.8 to 1.9

3 points. Poverty-based ratio of 1.6 to 1.7

2 points. Poverty-based ratio of 1.4 to 1.5

1 points. Poverty-based ratio of 1.1 to 1.3

0 points. Poverty-based ratio of 1.0 or less

The Field Office will determine the percentage of persons with incomes below the poverty level, as determined in the 1980 Census, for the allocation

area and for the area(s) specified in the PHA's application. If, for example, 15 percent of the population of the allocation area was below the poverty threshold in 1980, and 24 percent of the population of the area(s) specified in the PHA's application was below the poverty level, the application would be assigned an economic distress ratio of 1.6 and would receive 3 points.

(iii) *Selection Criterion 3: Operation Bootstrap Program (20 points).*

(A) *Criteria:* (1) The percentage of units in the application which will be used for operation bootstrap, a local program coordinating certificates and housing vouchers with public and private resources to enable families to achieve economic independence. (2) Actual commitment in writing of resources of private industry, for profit and nonprofit entities, and local public agencies to provide services and assistance appropriate to operation bootstrap. Services include: career and personal counseling, job training and placement, child care, transportation, adult basic education, and literacy training.

(B)(1) *Rating: Percent of Housing Vouchers/Certificates:*

10 points. 75–100% of the residual units (i.e., units other than units for rental rehabilitation purposes) being applied for will be used for an operation bootstrap program.

7 points. 50–74% of the residual units being applied for will be used for an operation bootstrap program.

4 points. 1–49% of the residual units being applied for will be used for an operation bootstrap program.

0 points. None of the residual units being applied for will be used for an operation bootstrap program.

(2) *Rating: Service Commitments:*

10 points. Commitments in writing to provide 6 or more services.

7 points. Commitments in writing to provide 3 to 5 services.

4 points. Commitments in writing to provide 1 or 2 services.

0 points. No written service commitments.

(iv) *Selection Criterion 4: Homeless Program (20 points).*

(A) *Criteria:* The percentage of the residual units (i.e., units other than units for rental rehabiliation purposes) in the application which will be targeted to homeless families other than those homeless families included under selection criterion 4, operation bootstrap program.

(B) *Rating: 20 points.* 75–100% of the residual units being applied for will be used for the homeless.

15 points. 50–74% of the residual units being applied for will be used for the homeless.

10 points. 1–49% of the residual units being applied for will be used for the homeless.

0 points. None of the residual units being applied for will be used for the homeless.

(C) *Field Office Assessment:* The Field Office shall evaluate the capacity of the PHA to have a homeless program operational within six months of ACC execution. If the Field Office determines that the PHA does not have the capacity to coordinate the necessary services and to implement a homeless program of the size indicated in the PHA application, up to one-half of the points assigned to the PHA under this criterion may be deducted.

(v) *Selection Criterion 5: Local Initiatives (3 points)*

(A) Criteria. (1) Extent to which PHAs provide families with greater housing opportunities (e.g., State or regional PHAs, or local PHAs participating in voluntary exchange programs and interjurisdictional mobility programs). (2) Extent to which PHAs demonstrate locally initiated efforts in support of their housing voucher and certificate programs or comparable tenant-based rental assistance programs. Evaluation of a locality's contribution is measured competitively by the extent to which a locality is able to provide services or cash contributions or demonstrate its intention to provide this kind of support in the future, as compared to services or contributions provided by other localities of like program size.

(B) *Rating: 3 points.* PHA is a State or regional PHA or local PHA participating in voluntary mobility programs *and* provides local support to its housing voucher or certificate program.

2 points. PHA provides either broader housing choice *or* local support.

0 points. PHA *does not* provide broader housing choice or local support.

(e) *Funding Applications.* Within each allocation area, the Field Office shall approve applications in accordance with HUD requirements in amounts needed for families affected by Rental Rehabilitation activities under paragraph 8.(d)(2), above. The Field Office shall approve applications for any remaining assistance based on the ranking of the applications. The Field Office may approve, in rank order until all of the housing assistance budget authority are used, either 100 percent or some lower percentage of the units in each application. The Field Office must apply the same percentage to each application that is funded.

9. Reallocations of Funds

It may be necessary to reallocate funds from one allocation area to another allocation area when the funds cannot be used in the allocation area to which they were initially assigned. In such cases, the following procedures shall be followed:

(a) *Reallocations Within the Same State.* If the allocation of funds to an area cannot be used, the Field Office must reallocate funds from that allocation area to another allocation area within the Field Office's jurisdiction. Similarly, if an allocation of funds to a Field Office cannot be used within that Field Office, the Regional Offices must reallocate those funds to another Field Office, for use in the same State. In making these reallocations priority must be given to those allocation areas where additional funds are needed for families affected by Rental Rehabilitation Program activities.

(b) *Reallocations Between States.* If a Regional Office cannot use funds from an allocation area within the same State, the Regional Office may request Headquarters approval to reallocate funds to another State within the jurisdiction of the Regional Office. In approving such a reallocation, Headquarters must consider whether these funds are needed within the same Region or other Regions for families affected by Rental Rehabilitation Program activities.

A request for Headquarters approval of a reallocation between States must explain the reasons that funds cannot be used in the original State, the amount being withdrawn from the original State, the program type, the metropolitan/nonmetropolitan mix, and the amount to be reallocated subsequently to each State. Such requests must be submitted to Headquarters (ATTENTION: Funding Control Division, HPFC) for approval.

(c) *Reallocations Between Metropolitan and Nonmetropolitan Areas.* The Regional Office must follow the original fund assignments to metropolitan and nonmetropolitan areas when it reallocates unused budget authority. If there are no approvable applications for the designated area, the Regional Office may switch the budget authority between a metropolitan and a nonmetropolitan area within the same State provided that an offsetting switch can be made in another State within the same Region. If an offsetting switch cannot be made and the metropolitan or nonmetropolitan amounts require changes to the regional fund assignments, the Regional Office must obtain the approval of the Funding

Control division before switching budget authority between a metropolitan and a nonmetropolitan area.

10. Notification of Funds Awarded

After the Field Offices have reviewed, rated, ranked, and approved the applications, Regional Offices must submit to Headquarters a list of all approved applications for the Federal Fiscal Year quarters ending December, March, June, and September, listed by Field Office. The Regional Office application approval list for each calendar quarter is due in Headquarters (ATTENTION: Funding Control Division, HPFC) on the tenth working day of April, July, October, and January, (i.e., the months following the end of each calendar quarter).

The Regional Offices must provide the following information for each application approved:

(a) The name and address of the PHA;

(b) The project number, the number of housing vouchers and the number of certificates, as applicable, approved for the PHA;

(c) The amount of contract authority and budget authority stated separately for housing vouchers and certificates;

(d) The number of housing vouchers and the number of certificates for each of the following: rental rehabilitation, operation bootstrap, and the homeless.

11. Administrative Fees

The Fiscal year 1990 Appropriations Act provides funding for PHA administration of the Certificate Program and Housing Voucher Program as follows:

	Housing vouchers	Certificates
(a) *FY 1990 Incremental*		
(1) On-going	8.2	8.2
(2) Preliminary	$275	$275
(3) Hard-to-house	$45	$45
(b) *FY 1990 Opt-outs/ Public Housing Demolition (Replacements and Relocation)/Renewals*		
(1) On-going	6.5	7.65
(2) Preliminary	$0	$0
(3) Hard-to-house	$45	$45

For budget preparation, submission of requisitions and approving year-end operating statements, PHAs should use the March 13, 1989, Housing Notice (H-89-7), Administrative Fee Requirements for the Section 8 Housing Voucher and Certificate Programs, to determine the blended rate for all certificate or housing voucher increments for a given PHA.

12. Headquarters Reserve

The Department is retaining approximately $160 million of the budget authority available for incremental housing vouchers and certificates in a Headquarters Reserve for use in connection with natural disasters, litigation, desegregation, projects converted to cooperatives owned by tenants or resident management corporations, the Robert Woods Johnson demonstration program, and other housing emergencies. (There will be a separate Notice of Funding Set-Aside issued for the Robert Woods Johnson demonstration program and for the use of certificates in connection with the conversion of public housing to cooperatives owned by tenants of resident management corporations.)

13. Other Allocations

In addition to the budget authority for incremental certificates and housing vouchers, the Department has $2.0 billion of budget authority for certificates and housing vouchers available for allocation on an as-needs basis for the following purposes:

(a) *Opt-Out/Prepayments.* Assisting families that are adversely affected by an owner's decision to opt-out or prepay a mortgage as follows:

(1) Families living in a Section 8 Loan Management Set-Aside Project where the Section 8 Housing Assistance Payments Contract ends.

(2) Families living in a Section 8 New Construction or Substantial Rehabilitation Project where the owner has sole discretion to "opt-out" of an additional term of assistance under the Section 8 Housing Assistance Payments Contract and does so.

(3) Families living in a below market rate project insured under Section 221(d)(3) or in a project insured under Section 236 of the National Housing Act when the owner prepays the mortgage with prior HUD approval.

Field Office requests for funding under this category will be approved on a first-come, first-served basis. Field Offices should indicate whether certificates, housing vouchers, or both are needed and should include all necessary data required to determine the amount of funds required.

(b) *Public Housing Demolition and Disposition (Relocation and Replacement).* Assisting families that are living in public housing projects that are being demolished or disposed of with HUD approval. Relocation assistance may be provided in the form of funding for 5-year certificates or housing vouchers. Replacement Housing may be provided in the form of funding for 15-year certificates. The Assistant Secretary for Public and Indian housing, before approving a PHA demolition or disposition proposal, will request from the Assistant Secretary for Housing the number of certificates and housing vouchers required by families living in the public housing project for relocation and for replacement.

(c) *Renewals.* Headquarters will allocate funds directly to the Field Offices to provide for the renewal of housing voucher and certificate funding increments expiring in Fiscal Year 1990 and Fiscal Year 1991. Renewal funding will be provided in-kind (i.e., certificates for certificates and housing vouchers for housing vouchers). Funding increments will be renewed in the order they expire.

(d) *Section 23 Conversions.* Headquarters will allocate certificate funds directly to the Field Offices to provide replacement housing for Section 23 leased housing for which leases are expiring or have been terminated by owners. Field Office requests for funding under this category will be approved on a first-come, first-served basis. Field Offices should include all necessary data required to determine the amount of funds required.

(e) *Section 8 Amendments.* Certificate Program cost amendments provide budget authority increases to PHA certificate programs to support increases in housing assistance payments resulting from rent increases or decreases in tenant incomes. Funds are allocated on a needs basis using housing costs and tenant contributions data available in the Department's automated systems.

Other Matters

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321-4347) is unnecessary since the Certificate Program and the Housing Voucher Program are part of the Section 8 Existing Housing Program, which is categorically excluded under HUD regulations at 24 CFR 50.20(d).

HUD has determined, in accordance with E.O. 12612, *Federalism*, that this notice does not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government because this rule would not substantially alter the established roles of HUD the States and local governments, including PHAs.

HUD has determined that this notice is not likely to have a significant impact on family formation, maintenance, and general well-being within the meaning of

E.O. 12606, *The Family*, because it is a funding notice and does not alter program requirements concerning family eligibility.

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f).

Date: June 1, 1990.

C. Austin Fitts,

Assistant Secretary for Housing-Federal Housing Commissioner.

Fiscal year 1990 section 8 and voucher allocation	Dollars	Units	Component parts of allocation area
HUD Region I (Boston)			
Boston, Massachusetts office:			
Metropolitan allocation areas:			
Western Massachusetts	5,649,176	134	Berkshire county towns of: Cheshire, Dalton, Hinsdale, Lanesborough, Lee, Lenox, Pittsfield, Richmond, Stockbridge; Hampden county towns of: Agawam, Chicopee, East Longmeadow, Hampden, Holyoke, Longmeadow, Ludlow, Monson, Montgomery, Palmer, Russell, Southwick, Springfield, Westfield, West Springfield, Wilbraham; Hampshire county towns of: Belchertown, Easthampton, Granby, Huntington, Northampton, Southampton, South Hadley.
Worcester	4,539,951	108	Middlesex county towns of: Ashby; Worcester county towns of: Ashburnham, Fitchburg, Leominster, Lunenburg, Westminister; Worcester county towns of: Auburn, Barre, Boylston, Brookfield, charlton, Clinton, Douglas, Dudley, East Brookfield, Grafton, Holden, Leicester, Millbury, Northborough, Northbridge, North Brookfield, Oxford, Paxton, Princeton, Rutland, Shrewsbury, Spencer, Sterling, Sutton, Uxbridge, Webster, Westborough, West Boylston, Worcester.
Boston	29,471,755	696	Bristol county towns of: Mansfield, Norton, Raynham; Essex county towns of: Lynn, Lynnfield, Nahant, Saugus; Middlesex county towns of: Acton, Arlington, Ashland, Ayer, Bedford, Belmont, Boxborough, Burlington, Cambridge, Carlisle, Concord, Everett, Framingham, Groton, Holliston, Hopkinton, Hudson, Lexington, Lincoln, Littleton, Malden, Marlborough, Maynard, Medford, Melrose, Natick, Newton, North Reading, Reading, Sherborn, Shirley, Somerville, Stoneham, Stow, Sudbury, Townsend, Wakefield, Waltham, Watertown, Wayland, Weston, Wilmington, Winchester, Woburn; Norfolk county towns of: Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxborough, Franklin, Holbrook, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood, Quincy, Randolph, Sharon, Stoughton, Walpole, Wellesley, Westwood, Weymouth, Wrentham; Plymouth county towns of: Carver, Duxbury, Hanover, Hanson, Hingham, Hull, Kingston, Lakeville, Marshfield, Middleborough, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate; Suffolk county towns of: Boston, Chelsea, Revere, Winthrop; Worchester county towns of: Berlin, Bolton, Harvard, Hopedale, Lancaster, Mendon, Milford, Southborough, Upton.
Northeast	6,092,111	144	Essex county towns of: Amesbury, Andover, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, Newbury, Newburyport, North Andover, Salisbury, West Newbury; Middlesex county towns of: Billerica, Chelmsford, Dracut, Dunstable, Lowell, Pepperell, Tewksbury, Tynsborough, Westford; Essex county towns of: Beverly, Danvers, Essex, Gloucester, Hamilton, Ipswich, Manchester, Marblehead, Middleton, Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield, Wenham.
Southeast	5,453,740	127	Bristol county towns of: Easton; Norfolk county towns of: Avon, Plymouth county towns of: Abington, Bridgewater, Brockton, East Bridgewater, Halifax, West Bridgewater, Whitman; Bristol county towns of: Fall River, Somerest, Swansea, Westport; Bristol county towns of: Acushnet, Dartmouth, Fairhaven, Freetown, New Bedford; Plymouth county towns of: Marion, Mattapoisett, Rochester; Bristol county towns of: Attleboro, North Attleborough, Rehoboth, Seekonk; Norfolk county towns of: Plainville; Worcester county towns of: Blackstone, Millville.
Nonmetroplitan allocation areas:			
Nonmetroplitan Statewide	6,337,983	180	Barnstable, Berkshire county towns of: Adams, Alford, Becket, Clarksburg, Egremont, Florida, Great Barrington, Hancock, Monterey, Mount Washington, New Ashford, New Marlborough, North Adams, Otis, Peru, Sandisfied, Savoy, Sheffield, Tyringham, Washignton, West Stockbridge, Williamstown, Windsor; Bristol county towns of: Berkley, Dighton, Taunton; DUKES FRANKLIN, HAMPDEN county towns of: Blandford, Brimfield, Chester, Granville, Holland, Tolland, Wales; HAMPSHIRE county towns of: Amherst, Chesterfield, Cummington, Goshen, Hadley, Hatfield, Middlefield, Pelham, Plainfield, Ware, Westhampton, Williamsburg, Worthington; NANTUCKET, PLYMOUTH county towns of: Wareham; WORECESTER county towns of: Athol, Gardner, Hardwick, Hubbardston, New Braintree, Oakham, Petersham, Phillipston, Royalston, Southbridge, Sturbridge, Templeton, Warren, West Brookfield, Winchendon.
Hartford, Connecticut office:			
Metroplitan allocation areas:			
bridgeport-Milford, Norwalk, Stamford.	5,185,385	137	Fairfield county towns of: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull; New Haven county towns of: Ansonia, Beacon Falls, Derby, Milford, Oxford, Seymour; Fairfield county towns of: Norwalk, Weston, Westport, Wilton; Fairfield county towns of: Darien, Greenwich, New Canaan, Stamford.
Bristol, Danbury, New Britain, Waterbury.	3,700,446	98	Hartford county towns of: Bristol, Burlington; Litchfield county towns of: Plymouth; Fairfield county towns of: Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Ridgefield, Sherman; Litchfield county towns of: Bridgewater, New Milford; Hartford county towns of: Berlin, New Britain, Plainville, Southington; Litchfield county towns of: Bethlehem, Thomaston, Watertown, Woodbury; New Haven county towns of: Middlebury, Naugatuck, Prospect, Southbury, Waterbury, Wolcott.
Hartford	5,279,582	141	Hartford county towns of: Avon, Bloomfield, Canton, East Granby, East Hartford, East Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, West Hartford, Wethersfield, Windsor, Windsor Locks; Litchfield county towns of: Barkhamsted, New Hartford; Middlesex county towns of: East Haddam; New London county towns of: Colchester; Tolland county towns of: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Somers, Stafford, Tolland, Vernon, Willington.
Middletown, N. London, Norwich, N. Haven-Merid.	5,874,855	156	Middlesex county towns of: Cromwell, Durham, East, Hampton, Haddam, Middlefield, Middletown, Portland; New London county towns of: Bozrah, East Lyme, Franklin, Griswold, Groton, Ledyard, Lisbon, Montville, New London, North Stronington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington, Waterford; Windham county towns of: Canterbury; Middlesex county towns of: Clinton, Killingworth; New Haven county towns of: Bethany, Branford, Cheshire, East Haven, Guilford, Hamden, Madison, Meriden, New Haven, North Branford, North Haven, Orange, Wallingford, West Haven, Woodbridge.

Fiscal year 1990 section 8 and voucher allocation	Dollars	Units	Component parts of allocation area
Nonmetropolitan allocation areas:			
Nonmetropolitan Connecticut Statewide.	2,967,685	88	Hartford county towns of: Hartland; Litchfield county towns of: Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent, Litchfield, Morris, Norfolk, North Canaan, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester; Middlesex county towns of: Chester, Deep River, Essex, Old Saybrook Westbrook; New London county towns of: Lebanon, Lyme, Voluntown; Tolland county towns of: Mansfield, Union; Windham county towns of: Ashford, Brooklyn, Chaplain, Eastford, Hampton, Killingly, Plainfield, Pomfret, Putnam, Scotland, Sterling, Thompson, Windham, Woodstock.
Manchester, New Hampshire office:			
Metropolitan allocation areas:			
Vermont—Burlington	960,656	27	Chittenden county towns of: Burlington, Charlotte, Colchester, Essex, Hindeburg, Jericho, Milton, Richmond, St. George, Shelburne, South Burlington, Williston, Winooski; Franklin county towns of: Georgia; Grand Isle county towns of: Grand Isle, South Hero.
Metropolitan New Hampshire	3,242,916	93	Rockingham county towns of: Atkinson, Brentwood, Danville, Derry, East Kingston, Hampstead, Kingston, Newton, Plaistow, Salem, Sandown, Seabrook, Windham; Hillsbrough county towns of: Bedford, Goffstown, Manchester; Merrimack county towns of: Allenstown, Hooksett; Rockingham county towns of: Auburn, Candia; Hillsbrorough county towns of: Pelham; Hillsborough county towns of: Amherst, Brookline, Hollis, Hudson, Litchfield, Merrimack, Milford, Mont Vernon, Nashua, Wilton; Rockingham county towns of: Londonderry; Rockingham county towns of: Exeter, Greenland, Hampton, New Castle, Newfields, Newington, Newmarket, North Hampton, Portsmouth, Rye, Stratham; Stafford county towns of: Barrington, Dover, Durham, Farmington, Lee, Madbury, Milton, Rochester, Rollinsford, Somersworth.
Metropolitan Maine	2,922,604	84	Penobscot county towns of: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Old Town, Orono, Orrington, Penobscot Indian I, Veazie; Waldo county towns of: Winterport; Androscoggin county towns of: Auburn, Greene, Lewiston, Lisbon, Mechanic Falls, Poland, Sabattus; Cumberland county towns of: Cape Elizabeth, Cumberland, Falmouth, Freeport, Gorham, Gray, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; York county towns of: Buxton, Hollis, Old Orchard Beach; York county towns of: Berwick, Eliot, Kittery, North Berwick, South Berwick, Wells, York.
Nonmetropolitan allocation areas:			
Nonmetropolitan Vermont Statewide.	3,733,207	127	Addison, Bennington, Caledonia, Chittenden county towns of: Bolton, Buels, Huntington, Underhill, Westford; Essex, Franklin county towns of: Bakerfield, Berkshire, Ensoburg, Fairfax, Fairfield, Fletcher, Franklin, Highgate, Montgomery, Richford, St. Albans, St. Albans, Sheldon, Swanton; GRAND ISLE county towns of: Alburg, Isle La Motte, North Hero; Lamoille, Orange, Orleans, Rutland, Washington, Windham, Windsor.
Nonmetropolitan New Hampshire Statewide.	3,797,597	129	Belknap, Carroll, Cheshire, Coos, Grafton, Hillsborough county towns of: Antrim, Bennington, Deering, Francestown, Greenfield, Greenville, Hancock, Hillsborough, Lyndeborough, Mason, New Boston, New Ipswich, Peterborough, Sharon, Temple, Weare, Windsor; Merrimack county towns of: Andover, Boscawen, Bow, Bradford, Canterbury, Chichester, Concord, Danbury, Dunbarton, Epsom, Franklin, Henniker, Hill, Hopkinton, Loudon, Newbury, New London, Northfield, Pembroke, Pittsfield, Sailsbury, Sutton, Warner, Webster, Wilmot; Rockingham county towns of: chester, Deerfield, Epping, Fremont, Hampton Falls, Kensington, Northwood, Nottingham, Raymond, South Hampton; Strafford county towns of: Middleton, New Durham, Strafford, Sullivan.
Nonmetropolitan Maine Statewide	5,771,213	195	Androscoggin county towns of: Durham, Leeds, Livermore, Livermore Falls, Minot, Turner, Wales; Aroostook, Cumberland county towns of: Baldwin, Bridgton, Brunswick, Casco, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago; Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Penosbscott county towns of: Alton, Argyle, Bradford, Bradley, Burlington, Carmel, Carroll, Charletson, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Grand Falls, Greenbush, Greenfield, Howland, Hudson, Kingman, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell, Mattawamkeag, Maxfield, Medway, Milford, Millinocket, Mount Chase, Newburgh, Newport, North Penobscot, Passadumkeag, Patten, Plymouth, Prentiss, Seboeis, Springfield, Stacyville, Stetson, Summit, Twombly, Webster, Whitney, Winn, Woodville; Piscataquis, Sagadahoc Somerset, Waldo county towns of: Belfast, Belmont, Brooks, Burnham, Frankfort, Freedom, Islesboro, Jackson, Knox, Liberty, Lincolnville, Monroe, Montville, Morrill, Northport, Palermo, Prospect, Searmont, Searsport, Stockton Springs, Swanville, Thorndike, Troy, Unity, Waldo; Washington, York county towns of: Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Limington, Lyman, Newfield, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro.
Providence, Rhode Island office:			
Metropolitan allocation areas:			
Statewide Metropolitan Allocation Area.	6,291,193	190	Newport county towns of: Little Compton, Tiverton; Washington county towns of: Hopkinton, Westerly; Providence county towns of: Burrillville, Central Falls, Cumberland, Lincoln, North Smithfield, Pawtucket, Smithfield, Woonsocket; Bristol county towns of: Barrington, Bristol, Warren, Kent county towns of: Coventry, East Greenwich, Warwick, West Warwick; Newport county towns of: Jamestown; Providence county towns of: Cranston, East Providence, Foster, Glocester, Johnston North Providence, Providence, Scituate; Washington county towns of: Exeter, Narragansett, North Kingston, Richmond, South Kingstown.
Nonmetropolitan allocation areas:			
Statewide Nonmetropolitan Allocation Area.	943,091	25	Kent county towns of: West Greenwich; Newport county towns of: Middletown, Newport, Portsmouth; Washington county towns of: Charlestown, New Shoreham.
HUD Region II (New York)			
Buffalo, New York office:			
Metropolitan allocation areas:			
Albany-Schenectady-Troy/Glens Falls, NY MSA.	4,254,804	158	Albany, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, Warren, Washington.
Rochester, NY MSA	5,771,411	212	Livingston, Monroe, Ontario, Orleans, Wayne.
Syracuse/Utica/Rome, NY MSA's	4,496,158	166	Madison, Onondaga, Oswego, Herkimer, Oneida.
Binghamton/Elmira, NY MSA's	1,508,267	56	Broome, Tioga, Chemung.
Buffalo-Niagara Falls/Jamestown-Dunkirk, NY.	6,638,087	244	Erie, Niagara, Chautauqua.

Fiscal year 1990 section 8 and voucher allocation	Dollars	Units	Component parts of allocation area
Nonmetropolitan allocation areas:			
Southwest	1,469,999	59	Allegany, Cattaraugus, Genesse, Wyoming.
Southcentral	4,066,305	160	Seneca, Schuyler, Steuben, Yates, Tompkins, Cayuga, Cortland.
Southeast	1,699,668	67	Columbia, Chenango, Delaware, Otsego, Schoharie.
Northwest	1,774,330	70	Jefferson, Lewis, St Lawrence.
Northeast	1,848,234	73	Clinton, Franklin, Essex, Hamilton, Fulton.
New York, New York office:			
Metropolitan allocation areas:			
Nassau County	4,783,438	134	Nassau.
Suffolk County	3,991,735	111	Suffolk.
New York PMSA	159,988,541	4473	New York City, Putnam, Rockland, Westchester.
Dutchess & Orange Counties	3,003,413	84	Orange, Dutchess.
Nonmetropolitan allocation areas:			
Sullivan & Ulster Counties	2,055,695	67	Sullivan, Ulster.
Newark, New Jersey office:			
Metropolitan allocation areas:			
Bergen-Passaic, NJ	10,728,787	277	Bergen, Passaic.
Jersey City, NJ	10,086,887	260	Hudson.
Newark, NJ	18,810,475	485	Essex, Morris, Sussex, Union, Warren.
South Central New Jersey	18,412,110	472	Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Salem, Somerset.
HUD Region III (Philadelphia)			
Baltimore, Maryland office:			
Metropolitan allocation areas:			
Maryland Metropolitan	16,217,235	527	Anne Arundel, Baltimore, Carroll, Harford, Howard, Queen Anne's, Baltimore, Allegany, Washington, Calvert, Charles, Frederick, Cecil.
Nonmetropolitan allocation areas:			
Maryland Nonmetropolitan	2,402,157	90	Caroline, Dorchester, Garrett, Kent, St Mary's, Somerset, Talbot, Wicomico, Worcester.
Charleston, West Virginia office:			
Metropolitan allocation areas:			
All Metro Counties	2,639,371	101	Kanawha, Putnam, Mineral, Cabell, Wayne, Wood, Brooke, Hancock, Marshall, Ohio.
Nonmetropolitan allocation areas:			
All Nonmetro Counties	7,230,532	337	Barbour, Berkeley, Boone, Braxton, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Jefferson, Lewis, Lincoln, Logan, McDowell, Marion, Mason, Mercer, Mingo, Monongalia, Monroe, Morgan, Nicholas, Pendleton, Pleasants, Pocahontas, Preston, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wetzel, Wirt, Wyoming.
Philadelphia, Pennsylvania, office:			
Metropolitan allocation areas:			
Allentown/Bethlehem	2,775,323	93	Carbon, Lehigh, Northampton.
Harrisburg/Lebanon/Carlisle	2,829,452	95	Cumberland, Dauphin, Lebanon, Perry.
Lancaster/Reading/York	5,154,071	172	Lancaster, Berks, Adams, York.
Philadelphia/Wilmington	20,618,407	683	Bucks, Chester, Delaware, Montgomery, Philadelphia, New Castle.
Scranton/Wilkes-Barre/State Col./Williamsport.	4,290,758	142	Columbia, Lackawanna, Luzerne, Monroe, Wyoming, Centre, Lycoming.
Nonmetropolitan allocation areas:			
Nonmetropolitan Delaware/Pennsylvania.	5,844,946	233	Bradford, Clinton, Franklin, Juniata, Mifflin, Montour, Northumberland, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Kent, Sussex.
Pittsburgh, Pennsylvania office:			
Metropolitan alocation areas:			
All Metro Counties	11,796,250	498	Blair, Beaver, Erie, Cambria, Somerset, Allegheny, Fayette, Washington, Westmoreland, Mercer.
Nonmetropolitan allocation areas:			
All Nonmetro Counties	5,744,052	235	Armstrong, Bedford, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean, Potter, Venango, Warren.
Richmond, Virginia office:			
Metropolitan allocation areas:			
Richmond, Petersburg, Hopewell MSA.	3,581,846	134	Charles City, Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, New Kent, Powhatan, Prince George, Colonial Heights, Hopewell, Petersburg, Richmond.
Norfolk, Virginia Beach, Newport News, MSA.	5,153,034	194	Gloucester, James City, York, Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, Williamsburg.
All Other MSAs	2,956,358	110	Albermarle, Fluvanna, Greene, Charlottesville, Pittsylvania, Danville, Scott, Washington, Bristol, Amherst, Campbell, Lynchburg, Botetourt, Roanoke, Salem, Stafford.
Nonmetropoitan allocation areas:			
Nonmetro Portion of Virginia	9,672,693	437	Accomack, Alleghany, Amelia, Appomattox, Augusta, Bath, Bedford, Bland, Brunswick, Buchanan, Buckingham, Caroline, Carroll, Charlotte, Clarke, Craig, Culpeper, Cumberland, Dickenson, Essex, Fuquier, Floyd, Franklin, Frederick, Giles, Grayson, Greensville, Halifax, Henry, Highland, Isle of Wight, King and Queen, King George, King William, Lancaster, Lee, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Montgomery, Nelson, Northampton, Northumberland, Nottoway, Orange, Page, Patrick, Prince Edward, Pulaski, Rappahannock, Richmond, Rockbridge, Rockingham, Russell, Shenandoah, Smyth, Southampton, Spotsylvania, Surry, Sussex, Tazewell, Warren, Westmoreland, Wise, Wythe, Bedford, Buena Vista, Clifton Forge, Covington, Emporia, Franklin, Fredericksburg, Galax, Harrisonburg, Lexington, Martinsville, Norton, Radford, South Boston, Staunton, Waynesboro, Winchester.
Washington, D.C. office:			
Metropolitan allocation areas:			
Washington, D.C.	23,528,529	583	Montgomery, Prince George's, Washington, Arlington, Fairfax, Loudoun, Prince William, Alexandria, Fairfax, Falls Church, Manassas, Manassas Park.

Fiscal year 1990 section 8 and voucher allocation	Dollars	Units	Component parts of allocation area
HUD Region IV (Atlanta)			
Metroplitan allocation areas:			
Atlanta, Georgia office:			
Ga. Metro Allocation Area No. 1	4,285,642	151	Fulton.
Ga. Metro Allocation Area No. 2	2,152,199	76	De Kalb.
Ga. Metro Allocation Area No. 3	4,687,363	163	Barrow, Butts, Catoosa, Cherokee, Clarke, Clayton, Cobb, Coweta, Dade, Douglas, Fayette, Forsyth, Gwinnett, Henry, Jackson, Madison, Newton, Oconee, Paulding, Rockdale, Spalding, Walker, Walton.
Ga. Metro Allocation Area No. 4	3,360,010	120	Chatham, Columbia, Dougherty, Effingham, Lee, McDuffie, Richmond.
Ga. Metro Allocation Area No. 5	2,144,619	86	Bibb, Chattahoochee, Houston, Jones, Muscogee, Peach.
Nonmetropolitan Allocation Areas:			
Ga. Nonmetro Allocation Area No. 1.	1,756,329	93	Bartow, Chattooga, Floyd, Gilmer, Gordon, Haralson, Murray, Pickens, Polk, Whitfield.
Ga. Nonmetro Allocation Area No. 2.	1,796,977	92	Banks, Dawson, Elbert, Fannin, Franklin, Greene, Habersham, Hall, Hart, Lincoln, Lumpkin, Morgan, Oglethorpe, Rabun, Stephens, Taliaferro, Towns, Union, Warren, White, Wilkes.
Ga. Nonmetro Allocation Area No. 3.	1,526,513	80	Carroll, Harris, Heard, Lamar, Meriwether, Monroe, Pike, Talbot, Troup, Upson.
Ga. Nonmetro Allocation Area No. 4.	1,653,927	88	Baldwin, Ben Hill, Bleckley, Crawford, Crisp, Dodge, Glascock, Hancock, Jasper, Johnson, Laurens, Pulaski, Putnam, Telfair, Twiggs, Washington, Wheeler, Wilcox, Wilkinson.
Ga. Nonmetro Allocation Area No. 5.	1,889,437	99	Bryan, Bulloch, Burke, Candler, Emanuel, Evans, Jefferson, Jenkins, Liberty, Long, McIntosh, Montgomery, Screven, Tattnall, Toombs, Truetlen.
Ga. Nonmetro Allocation Area No. 6.	2,461,288	127	Baker, Brooks, Calhoun, Clay, Colquitt, Decatur, Dooly, Early, Grady, Macon, Marion, Miller, Mitchell, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Taylor, Terrell, Thomas, Webster, Worth.
Ga. Nonmetro Allocation Area No. 7.	2,646,721	138	Appling, Atkinson, Bacon, Berrien, Brantley, Camden, Charlton, Clinch, Coffee, Cook, Echols, Glynn, Irwin, Jeff Davis, Lanier, Lowndes, Pierce, Tift, Turner, Ware, Wayne.
Birmingham, Alabama office:			
Metropolitan allocation areas:			
Metropolitan Allocation Area 1	1,574,424	72	Dale, Houston, Autauga, Elmore, Montgomery, Russell.
Metropolitan Allocation Area 2	1,364,475	62	Baldwin, Mobile.
Metropolitan Allocation Area 4	3,910,065	178	Calhoun, Blount, Jefferson, St Clair, Shelby, Walker, Tuscaloosa.
Metropolitan Allocation Area 3	1,937,627	88	Madison, Colbert, Lauderdale, Lawrence, Morgan, Etowah.
Non-Metropolitan allocation areas:			
Non-Metropolitan Allocation Area 1	1,634,241	92	Coffee, Pike, Lee, Henry, Geneva, Crenshaw, Bullock, Barbour, Chambers.
Non-Metropolitan Allocation Area 2	1,232,681	69	Butler, Lowndes, Macon, Covington, Dallas.
Non-Metropolitan Allocation Area 3	1,346,074	78	Jackson, Marshall, De Kalb, Cherokee, Winston, Limestone, Lamar, Franklin, Cullman.
Non-Metropolitan Allocation Area 4	1,448,892	79	Cleburne, Clay, Coosa, Talladega, Tallapoosa, Randolph, Hale, Greene, Fayette, Bibb, Chilton.
Non-Metropolitan Allocation Area 5	1,201,758	68	Choctaw, Clarke, Conecuh, Escambia, Marengo, Marion, Monroe, Perry, Pickens, Sumter, Washington, Wilcox.
Caribbean office:			
Metropolitan allocation areas:			
Caribbean—Metropolitan Areas	9,769,951	384	Aguada, Aguadilla, Isabela, Moca, Arecibo, Camuy Pueblo, Hatillo, Quebradillas, Aguas Buenas, Caguas, Cayey, Cidra, Gurabo, San Lorenzo, Anasco, Cabo Rojo, Hormigueros, Mayaguez, San German, Juana Diaz, Ponce, Barceloneta, Bayamon, Canovanas, Carolina, Catano, Corozal, Dorado, Fajardo, Florida, Guaynabo, Humacao, Juncos, Las Piedras, Loiza, Luquillo, Manati, Naranjito, Rio Grande, San Juan, Toa Alta, Toa Baja, Trujillo Alto, Vega Alta, Vega Baja.
NonMetropolitan allocation areas:			
Caribbean—Nonmetropolitan Areas	3,928,154	199	Adjuntas, Aibonito, Arroyo, Barranquitas, Ceiba, Ciales, Coama, Comerio, Culebra, Guanica, Guayama, Guayanilla, Jayuya, Lajas, Lares, Las Marias, Maricao, Maunabo, Morovis, Naguabo, Orocovis, Patillas, Penuelas, Rincon, Sabana Grande, Salinas, San Sebastian, Santa Isabel, Utuado, Vieques, Villalba, Yabucoa, Yauco, Virgin, Islands.
Columbia, South Carolina office:			
Metropolitan allocation areas:			
Metropolitan Allocation Area 1	4,533,275	195	Berkeley, Charleston, Dorchester, Lexington, Richland, Greenville, Pickens, Spartanburg.
Metropolitan Allocation Area 2	1,575,871	66	Anderson, Aiken, York, Florence.
Nonmetropolitan allocation areas:			
Nonmetropolitan Allocation Area 1	6,893,750	351	Abbeville, Allendale, Bamberg, Barnwell, Beufort, Calhoun, Cherokee, Chester, Chesterfield, Clarendon, Colleton, Darlington, Dillon, Edgefield, Fairfield, Georgetown, Greenwood, Hampton, Horry, Jasper, Kershaw, Lancaster, Laurens, Lee, McCormick, Marion, Marlboro, Newberry, Oconee, Orangeburg, Saluda, Sumter, Union, Williamsburg.
Greensboro, North Carolina office:			
Metropolitan allocation areas:			
Charlotte-Gastonia MSA	3,146,072	132	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union.
Greensboro—Winston-Salem—High Point MSA.	2,753,141	117	Davidson, Davie, Forsyth, Guilford, Randolph, Stokes, Yadkin.
Raleigh-Durham MSA	2,732,851	114	Durham, Franklin, Orange, Wake.
All Other Metropolitan Areas, N.C.	2,779,173	117	Buncombe, Alamance, Cumberland, Alexander, Burke, Catawba, Onslow, New Hanover.
Nonmetropolitan allocation areas:			
Non-Metropolitan Counties, Western N.C.	7,246,183	348	Alleghany, Anson, Ashe, Avery, Caldwell, Caswell, Chatham, Cherokee, Clay, Cleveland, Graham, Granville, Haywood, Henderson, Iredell, Jackson, Johnston, Lee, McDowell, Macon, Madison, Mitchell, Montgomery, Moore, Person, Polk, Richmond, Rockingham, Rutherford, Stanly, Surry, Swain, Transylvania, Vance, Warren, Watauga, Wilkes, Yancey.
Non-Metropolitan Counties, Eastern N.C.	8,776,473	422	Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Currituck, Dare, Duplin, Edgecombe, Gates, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Jones, Lenoir, Martin, Nash, Northampton, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Robeson, Sampson, Scotland, Tyrrell, Washington, Wayne, Wilson.
Jackson, Mississippi office:			
Metropolitan allocation areas:			
Metropolitan Allocation Area No. 1	2,439,720	98	De Soto, Hancock, Harrison, Hinds, Madison, Rankin, Jackson.
Nonmetropolitan allocation areas:			
Non Metropolitan Allocation Area No. 2.	3,123,566	165	Tippah, Itawamba, Chickasaw, Tishomingo, Pontotoc, Prentiss, Union, Alcorn, Monroe, Lee, Benton, Marshall, Calhoun, Lafayette, Yalobusha, Tate, Tunica, Quitman, Tallahatchie, Panola, Coahoma.

Fiscal year 1990 section 8 and voucher allocation	Dollars	Units	Component parts of allocation area
Non Metropolitan Allocation Area No. 3.	5,279,457	278	Issaquena, Sharkey, Humphreys, Bolivar, Sunflower, Washington, Leflore, Webster, Choctaw, Carroll, Winston, Montgomery, Clay, Grenada, Oktibbeha, Lowndes, Jasper, Smith, Clarke, Kemper, Newton, Leake, Neshoba, Scott, Attala, Launderdale, Noxubee.
Non Metropolitan Allocation Area No. 4.	3,461,542	182	Claiborne, Simpson, Copiah, Holmes, Yazoo, Warren, Lawrence, Jefferson Davis, Walthall, Franklin, Amite, Jefferson, Lincoln, Pike, Adams, Wilkinson, Greene, Perry, Stone, George, Covington, Lamar, Wayne, Marion, Pearl River, Jones, Forrest.
Jacksonville, Florida office:			
Metropolitan allocation areas:			
Miami-Ft Lauderdale	18,586,175	625	Dade, Broward.
West Palm Beach-Ft Pierce	2,651,966	89	Palm Beach, Martin, St Lucie.
Tampa-St Petersburg-Clearwater	6,210,453	209	Hernando, Hillsborough, Pasco, Pinellas.
Jacksonville-Ocala-Daytona Beach-Gainesville.	6,165,713	206	Clay, Duval, Nassau, St John, Marion, Volusia, Alachua Bradford.
Orlando-Melbourne	3,680,513	124	Orange, Osceola, Seminole, Brevard.
Pensacola-Ft Walton-Panama City-Tallahassee.	2,816,022	94	Escambia, Santa Rosa, Okaloosa, Bay, Gadsden, Leon.
Lakeland-Bradenton-Naples-Sarasota-Ft Myers.	3,270,409	110	Polk, Manatee, Collier, Sarasota, Lee.
Nonmetropolitan allocation areas:			
Nonmetropolitan Allocation Area 1	5,021,785	205	Baker, Calhoun, Charlotte, Citrus, Columbia, De Soto, Dixie, Flagler, Franklin, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lake, Levy, Liberty, Madison, Monroe, Okeechobee, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, Washington.
Louisville, Kentucky office:			
Metropolitan allocation areas:			
Metropolitan Allocation Area 1	4,355,151	183	Bourbon, Bullitt, Clark, Fayette, Jefferson, Jessamine, Oldham, Scott, Shelby, Woodford.
Metropolitan Allocation Area 2	2,027,850	85	Boone, Boyd, Campbell, Carter, Christian, Daviess, Greenup, Henderson, Kenton.
Nonmetropolitan allocation areas:			
Nonmetropolitan Allocation Area 1—West.	2,887,423	143	Allen, Ballard, Butler, Caldwell, Calloway, Carlisle, Crittenden, Edmonson, Fulton, Graves, Hancock, Hart, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall McCracken, McLean, Monroe, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren, Webster.
Nonmetropolitan Allocation Area 2—Central.	3,750,879	188	Adair, Anderson, Barren, Boyle, Breckinridge, Carroll, Casey, Clinton, Cumberland, Franklin, Gallatin, Garrard, Grant, Grayson, Green, Hardin, Harrison, Henry, Larue, Lincoln, Madison, Marion, McCreary, Meade, Mercer, Metcalfe, Nelson, Owen, Pendleton, Pulaski, Russell, Spencer, Taylor, Trimble, Washington, Wayne.
Nonmetropolitan Allocation Area 3—East.	4,554,000	230	Bath, Bell, Bracken, Breathitt, Clay, Elliott, Estill, Fleming, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owsley, Perry, Pike, Powell, Robertson, Rockcastle, Rowan, Whitley, Wolfe.
Knoxville, Tennessee office:			
Metropolitan allocation areas:			
Metropolitan Allocation Area 1	4,104,049	182	Hamilton, Marion, Sequatchie, Carter, Hawkins, Sullivan, Unicoi, Washington, Anderson, Blount, Grainger, Jefferson, Knox, Sevier, Union.
Nonmetropolitan allocation areas:			
Non-Metropolitan Allocation Area 1	2,575,239	137	Bledsoe, Bradley, Campbell, Claiborne, Cocke, Cumberland, Fentress, Greene, Grundy, Hamblen, Hancock, Johnson, Loudon, McMinn, Meigs, Monroe, Morgan, Pickett, Polk, Rhea, Roane, Scott.
Nashville, Tennessee office:			
Metropolitan allocation areas:			
Memphis-Jackson, TN. Allocation Area.	4,325,232	170	Shelby, Tipton, Madison.
Nashville-Clarksville, TN. Allocation Area.	3,903,590	153	Cheatham, Davidson, Dickson, Robertson, Rutherford, Sumner, Williamson, Wilson, Montgomery.
Nonmetropolitan allocation areas:			
West Tn. Allocation Area	2,253,141	117	Benton, Carroll, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, McNairy, Obion, Weakley.
Middle Tn. Allocation Area	2,624,726	139	Bedford, Cannon, Clay, Coffee, DeKalb, Franklin, Giles, Hickman, Jackson, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Moore, Overton, Perry, Putnam, Smith, Van Buren, Warren, Wayne, White, Stewart, Houston, Humphreys, Trousdale.
HUD REGION V (CHICAGO)			
Chicago, Illinois office:			
Metropolitan allocation areas:			
Metro I Chicago	48,168,204	1427	Cook, Du Page, McHenry.
Metro II Chicago Collar Counties	3,291,666	98	Lake, Kane, Kendall, Grundy, Will.
Metro III Rockford	2,398,821	71	Boone, Winnebago.
Metro IV Bloomington, Champaign, Decatur, Kanke.	2,628,384	78	McLean, Champaign, Macon, Kankakee.
Metro V Peoria, Rock Island, Springfield.	3,086,546	92	Peoria, Tazewell, Woodford, Henry, Rock Island, Menard, Sangamon.
Metro VI St. Louis-Illinois Portion	2,683,941	78	Clinton, Jersey, Madison, Monroe, St. Clair.
Nonmetropolitan allocation areas:			
Non-Metro I	3,919,427	170	Adams, Brown, Bureau, Calhoun, Carroll, Cass, Fulton, Greene, Hancock, Henderson, Jo Daviess, Knox, Lee, Marshall, McDonough, Mercer, Ogle, Pike, Putnam, Schuyler, Scott, Stark, Stephenson, Warren, Whiteside.
Non-Metro II	5,018,779	220	Bond, Christian, Coles, De Kalb, De Witt, Douglas, Effingham, Fayette, Ford, Iroquois, La Salle, Livingston, Logan, Macoupin, Mason, Montgomery, Morgan, Moultrie, Piatt, Shelby, Vermilion.
Non-Metro III	3,658,194	158	Alexander, Clark, Clay, Crawford, Cumberland, Edgar, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Perry, Pope, Pulaski, Randolph, Richland, Saline, Union, Wabash, Washington, Wayne, White, Williamson.
Cincinnati, Ohio office:			
Metropolitan allocation areas:			
Cincinnati Office—Metropolitan 1	4,904,076	198	Clermont, Hamilton, Warren.

Fiscal year 1990 section 8 and voucher allocation	Dollars	Units	Component parts of allocation area
Cincinnati Office—Metropolitan 2	4,326,526	175	Butler, Greene, Miami, Montgomery.
Nonmetropolitan allocation areas:			
Cincinnati Office—Nonmetropolitan	1,434,865	68	Adams, Brown, Clinton, Darke, Highland, Preble.
Cleveland, Ohio office:			
Metropolitan allocation areas:			
Akron-Canton MSA Area	2,905,426	121	Portage, Summit, Carroll, Stark.
Cleveland PMSA Area	8,604,545	358	Cuyahoga, Geauga, Lake, Medina.
Lorain-Toledo-Mansfield MSA Area	3,372,391	139	Fulton, Lucas, Wood, Richland, Lorain.
Steubenville-Youngstown MSA Area.	1,686,774	70	Jefferson, Mahoning, Trumbull.
Nonmetropolitan allocation areas:			
Cleveland Nonmetro Area 1	2,534,578	112	Wayne, Erie, Seneca, Wyandot, Ottawa, Sandusky, Hancock, Henry, Paulding, Defiance, Williams.
Cleveland Nonmetro Area 2	2,313,484	101	Ashtabula, Columbiana, Harrison, Tuscarawas, Holmes, Crawford, Ashland, Huron.
Columbus, Ohio office:			
Metropolitan allocation areas:			
Columbus Office—Metropolitan	7,052,549	284	Lawrence, Delaware, Fairfield, Franklin, Licking, Madison, Pickaway, Union, Clark, Allen, Auglaize, Washington, Belmont.
Nonmetropolitan allocation areas:			
Columbus Office—Nonmetropolitan South.	2,952,962	139	Athens, Fayette, Gallia, Hocking, Jackson, Meigs, Morgan, Perry, Pike, Ross, Scioto, Vinton.
Columbus Office—Nonmetropolitan North.	2,588,128	122	Champaign, Coshocton, Guernsey, Hardin, Knox, Logan, Marion, Mercer, Monroe, Morrow, Muskingum, Noble, Putnam, Shelby, Van Wert.
Detroit, Michigan office:			
Metropolitan allocation areas:			
Ann Arbor, Flint, Saginaw-Bay-Midland MSAs.	4,768,946	171	Washtenaw, Genesee, Bay, Midland, Saginaw.
Wayne County	12,014,638	428	Wayne.
Detroit PMSA Less Wayne County	5,574,693	197	Lapeer, Livingston, Macomb, Monroe, Oakland, St. Clair.
Nonmetropolitan allocation areas:			
Detroit Office Non-Metro	1,817,493	80	Alcona, Alpena, Arenac, Gladwin, Huron, Iosco, Lenawee, Montmorency, Ogemaw, Oscoda, Presque Isle, Sanilac, Shiawassee, Tuscola.
Grand Rapids, Michigan office:			
Metropolitan allocation areas:			
Grand Rapids-Lansing-E. Lansing MSAs.	3,727,121	145	Kent, Ottawa, Clinton, Eaton, Ingham.
Calhoun, Berrien, Jackson, Kalamazoo & Muskegon Co.	2,935,989	114	Calhoun, Berrien, Jackson, Kalamazoo, Muskegon.
Nonmetropolitan allocation areas:			
Non Metro—Upper Penisular	1,764,994	77	Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Keweenaw, Iron, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft.
Non Metro—Upper Penisular	4,846,339	208	Ionia, Allegan, Antrim, Barry, Benzie, Branch, Cass, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Grand Traverse, Gratiot, Hillsdale, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Newaygo, Oceana, Osceola, Otsego, Roscommon, St. Joseph, Van Buren, Wexford.
Indianapolis, Indiana office:			
Metropolitan allocation areas:			
Metro North	3,579,326	146	Lake, Porter, St. Joseph, Elkhart, Allen, De Kalb, Whitley.
Metro Central	5,264,142	214	Tippecanoe, Howard, Tipton, Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Shelby, Madison, Delaware.
Metro South	3,279,197	135	Clay, Vigo, Monroe, Dearborn, Posey, Vanderburgh, Warrick, Clark, Floyd, Harrison.
Nonmetropolitan allocation areas:			
Nonmetro North	2,135,388	99	Newton, Benton, Jasper, La Porte, Starke, Pulaski, White, Carroll, Marshall, Fulton, Cass, Kosciusko, Miami, Wabash, Huntington, Wells, Adams, Lagrange, Noble, Steuben.
Nonmetro Central	2,196,618	102	Warren, Vermillion, Fountain, Parke, Montgomery, Putnam, Clinton, Grant, Blackford, Jay, Randolph, Henry, Wayne, Rush, Fayette, Union.
Nonmetro South	2,656,363	128	Sullivan, Knox, Gibson, Owen, Greene, Daviess, Martin, Pike, Dubois, Spencer, Perry, Lawrence, Orange, Crawford, Brown, Jackson, Washington, Bartholomew, Decatur, Jennings, Scott, Jefferson, Ripley, Franklin, Ohio, Switzerland.
Milwaukee, Wisconsin office:			
Metropolitan allocation areas:			
Metropolitan Allocation Area #1	3,646,965	139	Calumet, Outagamie, Winnebago, Douglas, Chippewa, Eau Claire, Brown, La Crosse, St. Croix, Sheboygan, Marathon.
Metropolitan Allocation Area #2	3,633,662	137	Rock, Kenosha, Dane, Racine.
Metropolitan Allocation Area #3	7,352,750	278	Milwaukee, Ozaukee, Washington, Waukesha.
Nonmetropolitan allocation areas:			
Nonmetropolitan Allocation Area #1.	2,786,150	125	Columbia, Crawford, Dodge, Grant, Green, Iowa, Jefferson, Lafayette, Richland, Sauk, Vernon, Walworth.
Nonmetropolitan Allocation Area #2.	2,825,060	129	Ashland, Barron, Bayfield, Buffalo, Burnett, Clark, Dunn, Iron, Jackson, Juneau, Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, Taylor, Trempealeau, Washburn, Wood.
Nonmetropolitan Allocation Area #3.	3,045,665	138	Adams, Door, Florence, Fond du Lac, Forest, Green Lake, Kewaunee, Langlade, Lincoln, Manitowoc, Marinette, Marquette, Oconto, Oneida, Portage, Shawano, Vilas, Waupaca, Waushara, Menominee.
Minneapolis-St. Paul, Minnesota office:			
Metropolitan allocation areas			
Minneapolis/St. Paul MSA	10,387,125	341	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, Wright.
Greater Minnesota metro	2,223,753	72	St Louis, Olmsted, Clay, Benton, Sherburne, Stearns.
Nonmetropolitan allocation areas			
Northern Minnesota	2,904,806	130	Kittson, Roseau, Marshall, Pennington, Red Lake, Polk, Norman, Lake of the Woods, Beltrami, Clearwater, Mahnomen, Hubbard, Becker, Wilkin, Otter Tail, Grant, Douglas, Traverse, Stevens, Pope, Koochiching, Itasca, Aitkin, Carlton, Lake, Cook, Cass, Crow Wing, Wadena, Todd, Morrison, Mille Lacs, Kanabec, Pine.

Fiscal year 1990 section 8 and voucher allocation	Dollars	Units	Component parts of allocation area
Southwestern Minnesota	1,577,066	70	Big Stone, Swift, Chippewa, Lac Qui Parle, Yellow Medicine, Kandiyohi, Meeker, Renville, McLeod, Lincoln, Lyon, Redwood, Pipestone, Murray, Cottonwood, Rock, Nobles, Jackson.
Southeastern Minnesota	2,670,009	117	Sibley, Nicolelet, Le Sueur, Brown, Watonwan, Blue Earth, Waseca, Martin, Faribault, Rice, Goodhue, Wabasha, Steele, Dodge, Winona, Freeborn, Mower, Fillmore, Houston.
HUD REGION VI (FORT WORTH)			
Fort Worth, Texas Office			
Metropolitan allocation areas			
Central Texas	2,266,698	83	Bell, Coryell, Tom Green, McLennan.
Dallas Texas	7,446,977	271	Collin, Dallas, Denton, Ellis, Kaufman, Rockwall.
East Texas	1,646,715	60	Gregg, Harrison, Grayson, Bowie, Smith.
Fort Worth-Arlington	3,087,819	112	Johnson, Parker, Tarrant.
Far West Texas	4,628,525	168	El Paso, Midland, Ector.
West Texas	2,341,355	85	Taylor, Potter, Randall, Lubbock, Wichita.
New Mexico	3,037,991	110	Bernalillo, Dona Ana, Los Alamos, Santa Fe.
Nonmetropolitan allocation areas			
Central Texas	1,720,689	82	Milam, Lampasas, San Saba, Hamilton, Mills, Hill, Kimble, Reagan, Mason, Coke, Sutton, Concho, Schleicher, Crockett, Martin, Menard, Sterling, Irion, Nolan, Kent, Brown, Jones, Stonewall, Haskell, Stephens, Fisher, Scurry, Eastland, Knox, Comanche, Runnels, Coleman, Mitchell, Schackelford, Throckmorton, Callahan.
Far West Texas	2,054,463	98	Reeves, Andrews, Marion, Howard, Pecos, Gaines, Terrell, Crane, Upton, Loving, Ward, Dawson, Glasscock, Borden, Winkler, Bailey, King, Cochran, Lamb, Dickens, Lynn, Garza, Motley, Hockley, Terry, Floyd, Crosby, Hale, Yoakum, Hudspeth, Jeff Davis, Culberson, Brewster, Presidio.
North Central Texas	1,804,595	87	Limestone, Bosque, Freestone, Falls, Hunt, Palo Pinto, Wise, Erath, Hood, Somervell, Navarro, Fannin, Cooke.
Northeast Texas	2,127,484	102	Franklin, Hopkins, Titus, Delta, Morris, Red River, Lamar, Cass, Henderson, McCulloch, Camp, Rains, Cherokee, Van Zandt, Rusk, Anderson, Wood, Upshur, Panola.
Texas Panhandle	1,447,482	70	Jack, Young, Hardeman, Archer, Clay, Montague, Foard, Cottle, Baylor, Wilbarger, Hemphill, Hansford, Hall, Swisher, Gray, Roberts, Donley, Oldham, Deaf Smith, Moore, Dallam, Hutchinson, Collingsworth, Wheeler, Childress, Parmer, Castro, Lipscomb, Carson, Sherman, Hartley, Ochiltree, Briscoe, Armstrong.
North & West New Mexico	1,683,228	82	Colfax, McKinley, Mora, Rio Arriba, San Juan, San Miguel, Sandoval, Taos, Torrance, Valencia.
South & East New Mexico	1,845,233	88	Catron, Chaves, Curry, De Baca, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Luna, Otero, Quay, Roosevelt, Sierra, Socorro, Union.
Houston, Texas office:			
Metropolitan allocation areas:			
Beaumont-Port Arthur MSA	1,279,441	53	Hardin, Jefferson, Orange.
Houston PMSA	10,005,639	421	Fort Bend, Harris, Liberty, Montgomery, Waller.
Southeast Texas Meto	1,678,571	71	Brazoria, Brazos, Galveston.
Nonmetropolitan allocation areas:			
Nonmet BVDC and HGAC Non-Metro.	1,746,991	79	Austin, Burleson, Chambers, Colorado, Grimes, Leon, Madison, Matagorda, Robertson, Washington, Walker, Wharton.
Deep East Texas Non-Metro	1,470,132	66	Angelina, Houston, Jasper, Nacogdoches, Newton, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler.
Little Rock, Arkansas office:			
Metropolitan allocation areas:			
Metro 1	1,531,031	65	Faulkner, Lonoke, Pulaski, Saline.
Metro 2	1,758,837	75	Crawford, Sebastian, Jefferson, Miller, Crittenden, Washington.
Nonmetropolitan allocation areas:			
North	1,542,966	84	Cleburne, Fulton, Independence, Izard, Jackson, Sharp, Stone, Van Buren, White, Woodruff, Baxter, Benton, Boone, Carroll, Madison, Marion, Newton, Searcy.
Northeast	1,426,037	78	Clay, Craighead, Greene, Lawrence, Mississippi, Poinsett, Randolph.
East	1,357,440	73	Monroe, Prairie, Cross, Lee, Phillips, St Francis.
South	1,795,653	97	Arkansas, Ashley, Bradley, Chicot, Cleveland, Desha, Drew, Grant, Lincoln, Calhoun, Columbia, Dallas, Hempstead, Howard, Lafayette, Little River, Nevada, Ouachita, Sevier, Union.
West	1,650,523	88	Clark, Conway, Garland, Hot Spring, Johnson, Montgomery, Perry, Pike, Pope, Yell, Franklin, Logan, Polk, Scott.
New Orleans, Louisiana office:			
Metropolitan allocation areas:			
Baton Rouge Metro Area	1,690,682	63	Ascension, East Baton Rouge, Livingston, West Baton Rouge.
South-Western Louisiana Metro Areas.	2,430,505	93	Lafourche, Terrebonne, Lafayette, St Martin, Calcasieu.
North-Central Louisiana Metro Areas.	2,409,655	92	Bossier, Caddo, Ouachita, Rapides.
New Orleans Metro Area	7,993,672	302	Jefferson, Orleans, St Bernard, St Charles, St John the Baptist, St Tammany.
Nonmetropolitan allocation areas:			
North-Western Louisiana	1,473,011	82	Webster, Claiborne, Lincoln, Bienville, De Soto, Red River, Winn, Sabine, Natchitoches, Grant, Vernon.
South-Western Louisiana	2,326,754	130	Beauregard, Allen, Evangeline, St Landry, Jefferson Davis, Acadia, Cameron, Vermilion, Iberia, St Mary, Assumption.
North-Eastern Louisiana	1,239,612	69	Union, Morehouse, East Carroll, West Carroll, Jackson, Richland, Madison, Caldwell, Franklin, Tensas, La Salle, Catahoula, Concordia, Avoyelles.
South-Eastern Louisiana	1,551,136	87	Pointe Coupee, West Feliciana, East Feliciana, St Helena, Tangipahoa, Washington, St James, Plaquemines, Iberville.
Oklahoma City, Oklahoma office:			
Metropolitan allocation areas:			
Western Metro	4,031,389	151	Canadian, Cleveland, Logan, McClain, Oklahoma, Pottawatomie, Comanche, Garfield.
Eastern Metro	2,283,216	85	Creek, Osage, Rogers, Tulsa, Wagoner, Sequoyah.

Fiscal year 1990 section 8 and voucher allocation	Dollars	Units	Component parts of allocation area
Nonmetroplitan allocation areas:			
Western Non-Metro	2,333,765	125	Alfalfa, Beaver, Beckham, Blaine, Caddo, Cimarron, Cotton, Custer, Dewey, Ellis, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Kay, Kingfisher, Kiowa, Major, Noble, Roger Mills, Stephens, Texas, Tillman, Washita, Woods, Woodward.
Central Non-Metro	1,815,158	99	Atoka, Bryan, Carter, Coal, Garvin, Hughes, Johnston, Lincoln, Love, Marshall, Murray, Okfuskee, Pawnee, Payne, Pontotoc, Seminole.
Eastern Non-Metro	2,263,188	122	Adair, Cherokee, Choctaw, Craig, Delaware, Haskell, Latimer, Le Flore, McCurtain, McIntosh Mayes, Muskogee, Nowata, Okmulgee, Ottawa, Pittsburg, Pushmataha, Washington.
San Antonio, Texas office:			
Metropolitan allocation areas:			
Metropolitan Area A	3,120,041	115	Hidalgo, Cameron, Webb.
Metropolitan Area B	4,839,684	179	Bexar, Comal, Guadalupe.
Metroplitan Area C	2,971,224	110	Travis, Williamson, Hays.
Metropolitan Area D	1,904,867	70	Victoria, Nueces, San Patricio.
Nonmetroplitan allocation areas:			
Nonmetropolitan Area A	1,358,959	68	Val Verde, Edwards, Real, Kerr, Bandera, Kinney, Uvalde, Medina, Maverick, Zavala, Frio, Dimmit, La Salle.
Nonmetropolitan Area B	1,326,631	64	Atasosa, McMullen, Live Oak, Bee, Refugio, Aransas, Duval, Jim Wells, Kleberg, Zapata, Jim Hogg, Brooks, Kenedy, Starr, Willacy.
Nonmetropolitan Area C	1,526,295	76	Calhoun, Goliad, Jackson, Karnes, De Witt, Lavaca, Wilson, Gonsales, Kendall, Gillespie, Llano, Burnet, Blanco, Caldwell, Bastrop, Lee, Fayette.
HUD Region VII (Kansas City)			
Des Moines, Iowa office:			
Metropolitan allocation areas:			
Metro-East	2,660,100	99	Black Hawk, Bremer, Dubuque, Johnson, Linn, Scott.
Metro-West	2,010,170	76	Dallas, Polk, Pottawattamie, Warren, Woodbury.
Nonmetroplitan allocation areas:			
Non-Metro-East	3,298,035	149	Allamakee, Benton, Buchanan, Butler, Cedar, Chickasaw, Clayton, Clinton, Delaware, Des Moines, Fayette, Grundy, Hardin, Henry, Howard, Iowa, Jackson, Jones, Lee, Louisa, Marshall, Muscatine, Poweshiek, Tama, Washington, Winneshiek.
Non-Metro-Northwest/Central	3,097,774	141	Audubon, Buena Vista, Calhoun, Carroll, Cerro Gordo, Cherokee, Clay, Crawford, Dickinson, Emmet, Floyd, Franklin Greene, Guthrie, Hamilton, Hancock, Humboldt, Ida, Kossuth, Lyon, Mitchell, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Webster, Winnebago, Worth, Wright.
Non-Metro-Southwest/Central	3,131,553	142	Adair, Adams, Appanoose, Boone, Cass, Clarke, Davis, Decatur, Fremont, Harrison, Jasper, Jefferson, Keokuk, Lucas, Madison, Mahaska, Marion, Mills, Monroe, Montgomery, Page, Riggold, Shelby, Story, Taylor, Union, Van Buren, Wapello, Wayne.
Kansas City, Missouri office:			
Metropolitan allocation areas:			
Metropolitan Kansas City, Missouri	3,858,611	155	Cass, Clay, Jackson, Lafayette, Platte, Ray.
Metro Joplin, Springfield & St. Joseph, Mo.	1,505,751	60	Jasper, Newton, Buchanan, Christian, Greene.
Metro Kansas City, Kansas, Lawrence & Topeka.	2,343,788	93	Johnson, Leavenworth, Miami, Wyandotte, Douglas, Shawnee.
Metropolitan Wichita, Kansas	1,663,925	65	Butler, Harvey, Sedgwick.
Nonmetroplitan allocation areas:			
Western Non-Metropolitan Missouri	2,766,900	143	Andrew, Atchison, Barry, Barton, Bates, Benton, Caldwell, Camden, Carroll, Cedar, Chariton, Clinton, Dade, Dallas, Daviess, De Kalb, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Johnson, Laclede, Lawrence, Linn, Livingston, McDonald, Mercer, Miller, Morgan, Nodaway, Pettis, Polk, Pulaski, Putnam, St Clair, Saline, Stone, Sullivan, Taney, Vernon, Webster, Worth.
Eastern Non-Metropolitan Kansas	1,914,132	97	Allen, Anderson, Atchison, Bourbon, Brown, Chase, Cherokee, Coffey, Crawford, Doniphan, Franklin, Jackson, Jefferson, Labette, Linn, Lyon, Marshall, Montgomery, Nemaha, Neosho, Osage, Wilson, Woodson.
Central and Western Non-Metropolitan Kansas.	3,772,315	195	Barber, Barton, Chautauqua, Cheyenne, Clark, Clay, Cloud, Comanche, Cowley, Decatur, Dickinson, Edwards, Elk, Ellis, Ellsworth, Finney, Ford, Geary, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Haskell, Hodgeman, Jewell, Kearny, Kingman, Kiowa, Lane, Lincoln, Logan, McPherson, Marion, Meade, Mitchell, Morris, Morton, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Riley, Rooks, Rush, Russell, Saline, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wabaunsee, Wallace, Washington, Wichita.
Omaha, Nebraska office:			
Metropolitan allocation areas:			
Metro-Nebraska	2,723,426	110	Dakota, Douglas, Lancaster, Sarpy, Washington.
Nonmetroplitan allocation areas:			
East-Nebraska	2,073,360	104	Antelope, Boone, Burt, Butler, Cass, Cedar, Clay, Colfax, Cuming, Dixon, Dodge, Filimore, Gage, Hamilton, Jefferson, Johnson, Knox, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Pierce, Platte, Polk, Richardson, Saline, Saunders, Seward, Stanton, Thayer, Thurston, Wayne, York.
West-Nebraska	2,352,470	113	Adams, Arthur, Banner, Blaine, Box Butte, Boyd, Brown, Buffalo, Chase, Cherry, Cheyenne, Custer, Dawes, Dawson, Duel, Dundy, Franklin, Frontier, Furnas, Garden, Garfield, Gosper, Grant, Greeley, Hall, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Kearney, Keith, Keya Paha, Kimball, Lincoln, Logan, Loup, McPherson, Morrill, Perkins, Phelps, Red Willow, Rock, Scotts Bluff, Sheridan, Sherman, Sioux, Thomas, Valley, Webster, Wheeler.
St. Louis, Missouri office:			
Metropolitan allocation areas:			
Metropolitan Allocation Area	7,719,559	295	Boone, Franklin, Jefferson, St Charles, St Louis, St Louis.

Fiscal year 1990 section 8 and voucher allocation	Dollars	Units	Component parts of allocation area
Nonmetropolitain allocation areas:			
Nonmetropolitan Allocaiton Area	4,849,358	254	Adair, Audrain, Bollinger, Butler, Calaway, Cape Girardeau, Carter, Clark, Cole, Cooper Crawford, Dent, Douglas, Dunklin, Gasconade, Howard, Howell, Iron, Knox, Lewis, Lincoln, Macon, Madison, Maries, Marion, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Oregon, Osage, Ozark, Pemiscot, Perry, Phelps, Pike, Ralls, Randolph, Reynolds, Ripley, Ste Genevieve, St Francois, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Texas, Warren, Washington, Wayne, Wright.
HUD Region VIII (Denver)			
Denver, Colorado regional office:			
Metropolitan allocation areas:			
Denver colorado PMSA	5,971,439	217	Adams, Arapahoe, Denver, Douglas, Jefferson.
Colorado Northern Front Range Metro.	2,371,414	87	Boulder, Larimer, Weld.
Colorado Southern Front Range Metro.	1,746,667	64	El Paso, Pueblo.
Montana metro areas	759,823	28	Yellowstone, Cascade.
North Dakota Metro Areas	921,495	34	Burleigh, Morton, Cass, Grand Forks.
South Dakota Metro Areas	617,097	23	Pennington, Minnehaha.
Utah Metro areas	4,295,223	156	Utah, Davis, Salt Lake, Weber.
Wyoming Metro Areas	394,385	15	Natrona, Laramie.
Nonmetroplitan allocation areas:			
Colorado Nonmetro Area	4,063,789	164	Alamosa, Archuleta, Baca, Bent, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Dolores, Eagle, Elbert, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Kiowa, Kit Carson, Lake, La Plata, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Yuma.
Montana Nonmetro Area	4,768,250	193	Beaverhead, Big Horn, Blaine, Broadwater, Carbon, Carter, Chouteau, Custer, Daniels, Dawson, Anaconda-Deer Lodge Coun, Fallon, Fergus, Flathead, Gallatin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Lake, Lewis and Clark, Liberty, Lincoln, McCone, Madison, Meagher, Mineral, Missoula, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Powell, Prairie, Ravalli, Richland, Roosevelt, Rosebud, Sanders, Sheridan, Butte-Silver Bow, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, Yellowstone National Park.
North Dakota Nonmetro Area	2,391,206	99	Adams, Barnes, Benson, Billings, Bottineau, Bowman, Burke, Cavalier, Dickey, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grant, Griggs, Hettinger, Kidder. La Moure, Logan, McHenry, McIntosh, McKenzie, McLean, Mercer, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Siox, Slope, Stark, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, Williams.
South Dakota Nonmetro Area	3,769,967	152	Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmounds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Marshall, Meade, Mellette, Miner, Moddy, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Sully, Todd, Tripp, Turner, Union, Walworth, Yankton, Ziebach.
Utah Nonmetro Area	1,700,883	69	Beaver, Box Elder, Cache, Carbon, Daggett, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, San Juan, Sanpete, Sevier, Summit, Todele, Uintah, Wasatch, Washington, Wayne.
Wyoming Nonmetro Area	2,011,739	82	Albany Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Lincoln, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.
HUD Region IX (San Francisco)			
Honolulu, Hawaii office:			
Metropolitan allocation areas:			
Honolulu, HI MSA	6,040,398	160	Honolulu.
Nonmetropolitan allocation area:			
Nonmetropolitan Allocation Area	5,238,339	136	Hawaii, Kauai, Maui, Guam.
Los Angeles, California office:			
Metropolitan allocation areas:			
Los Angeles County, CA	100,677,360	2443	Los Angeles.
Orange County, CA	13,482,249	327	Orange.
Riverside and San Bernardino Counties, CA.	9,859,641	239	Riverside, San Bernardino.
Kern-Ventura-Santa Barbara Counties, CA.	9,686,363	235	Kern, Ventura, Santa Barbara.
San Diego County, CA	17,146,149	416	San Diego.
Nonmetropolitan allocaiton areas:			
S. Luis Obispo-Imperial-Inyo-Mono Counties, CA.	4,732,439	138	San Luis Obispo, Imperial, Inyo, Mono.
Phoenix, Arizona office			
Metropolitan allocation areas:			
Metropolitan Arizona	9,075,202	281	Maricopa, Pima.
Nonmetropolitan allocation areas:			
Nonmetropolitan Arizona Allocation Area East.	2,294,827	86	Apache, Cochise, Gila, Graham, Greenlee, Pinal, Santa Cruz.
Nonmetropolitan Arizona Allocation Area West.	2,292,102	87	Coconino, Mohave, Navajo, Yavapai, Yuma, La Paz.
Sacrameto, California office:			
Metropolitan allocation areas:			
Metropolitan Allocation Area 1	4,034,634	136	Butte, Shasta, San Joaquin, Sutter Yuba.
Metropolitan Allocation Area 2	5,418,135	182	El Dorado, Placer, Sacramento, Yolo.
San Franciso, California office:			
Metropolitan allocation areas:			
Metropolitan Allocation Area 1	9,801,717	223	Fresno, Merced, Stanislaus, Tulare.

Fiscal year 1990 section 8 and voucher allocation	Dollars	Units	Component parts of allocation area
Metropolitan Allocation Area 2	18,270,594	416	Alameda, Contra Costa.
Metropolitan Allocation Area 3	23,022,059	525	Marin, San Francisco, San Mateo.
Metropolitan Allocation Area 4	15,041,656	342	Monterey, Santa Clara, Santa Cruz, Monterey, Santa Clara, Santa Cruz.
Metropolitan Allocation Area 5	5,119,986	115	Sonoma, Napa, Solano, Snoma, Napa, Solano.
Metropolitan Allocation Area 6	5,075,467	115	Clark, Washoe, Clark, Washoe.
Nonmetropolitan Allocation Area (SF&SAC).	10,10,698	335	Churchill, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Nye, Pershing, Storey, White Pine, Carson City, Del Norte, Humboldt, Kings, Lake, Madera, Mariposa, Mendocino, San Benito, Alpine, Amador, Calaveras, Colusa, Glenn, Lassen, Modoc, Nevada, Plumas, Sierra, Siskiyou, Tehama, Trinity, Tuolumne.
HUD Region X (Seattle)			
Anchorage, Alaska office:			
Metropolitan allocation areas:			
Anchorage	709,281	22	Anchorage.
Nonmetropolitan allocation areas			
Nonmetro Alaska	2,732,321	79	Aleutian Islands, Bethel, Bristol Bay, Dillingham, Fairbanks North Star, Haines, Juneau, Kenai Penisula, Ketchikan Gateway, Kobuk, Kodiak Island, Matanuska-Susitna, Nome, North Slope, Prince of Wales-Outer Ke, Sitka, Skagway-Yakutat-Angoon, Southeast Fairbanks, Valdez-Cordova, Wade Hampton, Wrangell-Petersburg, Yukon-Koyukuk.
Portland, Oregon office:			
Metropolitan allocation areas:			
Portland/Vancouver	7,175,599	253	Clackamas, Multnomah, Washington, Yamhill, Clark.
Ida-Ore Metro	3,598,632	125	Ada, Jackson, Lane, Marion, Polk.
Nonmetropolitan allocation areas:			
Idaho Nonmetro	5,686,323	208	Adams, Bannock, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Bonneville, Boundary, Butte, Camas, Canyon, Caribou, Cassia, Clark, Clearwater, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Idaho, Jefferson, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Madison, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Twin Falls, Valley, Washington.
Eastern Oregon	3,017,131	112	Klickitat, Skamania, Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hodd River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Walowa, Wasco, Wheeler.
Western Oregon	4,817,321	117	Benton, Clatsop, Columbia, Coos, Curry, Douglas, Josephine, Lincoln, Linn, Tillamook.
Seattle, Washington office;			
Metropolitan allocation areas:			
Metro-1	15,275,952	543	Watcom, Kitsap, Thurston, Benton, Franklin, King, Snohomish, Spokane, Pierce, Yakima.
Nonmetropolitan allocation areas:			
Nonmetro-1	3,516,688	134	Clallam, Cowlitz, Grays Harbor, Island, Jefferson, Lewis, Mason, Pacific, San Juan, Skagit, Wahkiakum.
Nonmetro-2	3,692,506	141	Adams, Asotin, Chelan, Columbia, Dougls, Ferry, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Stevens, Walla Walla, Whitman.

[FR Doc. 90-13408 Filed 6-8-90; 8:45 am]
BILLING CODE 4210-27-M

Reader Aids

Federal Register

Vol. 55, No. 112

Monday, June 11, 1990

INFORMATION AND ASSISTANCE

FEDERAL REGISTER PAGES AND DATES, June

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

522 23075
558 23423
864 23510

Proposed Rules:
333 ..... 23235, 23450
334 23235
335 23235
341 23235
344 23235
347 23235
348 23235
350 23235
355 23235
356 23235
357 23235
358 23235
444 23450
448 23450

22 CFR

35 23424
211 23638

23 CFR

658 22758

Proposed Rules:
635 22812

24 CFR

Proposed Rules:
86 22722
251 22887
252 22887
255 22887
791 23670

26 CFR

48 23076
602 23076

Proposed Rules:
1 23235

27 CFR

19 23634
197 23634
251 23634

Proposed Rules:
9 22925

28 CFR

0 ..... 22901, 22902

29 CFR

1910 23433
2200 22780

30 CFR

917 22903
920 22904
925 22907
935 22913
942 23345

Proposed Rules:
220 23248
914 22928
935 22929-22931

32 CFR

Proposed Rules:
199 23554

33 CFR

100 ..... 23200, 23201
117 ..... 23202, 23434
162 23202
165 23202

Proposed Rules:
117 ..... 22822, 22823
165 23250

38 CFR

Proposed Rules:
3 22932

40 CFR

35 22994
52 ..... 22332, 22334, 22784, 23547
60 23077
80 23658
123 22748
130 22748
148 22520
261 ..... 22520, 23634
262 22520
264 22520
265 22520
268 22520
270 22520
271 ..... 22520, 22916
281 23549
302 22520

Proposed Rules:
52 ..... 22933, 23556
141 22752
228 23251
799 22359

42 CFR

405 ..... 22785, 23435
410 22785
413 23435
414 23435

43 CFR

5400 22916
5440 22916

44 CFR

7 23076

46 CFR

Proposed Rules:
308 23103

47 CFR

1 23082
73 23084

Proposed Rules:
21 23254
22 23562
43 ..... 23254, 23563
73 ..... 23107, 23108, 23565
74 23254
78 23254
94 23254

48 CFR

Proposed Rules:
1509 23109
1510 23109
1512 23109
1527 23109
1552 23109

49 CFR

217 22791
219 22791

Proposed Rules:
192 23514
195 23514

50 CFR

33 23549
263 23550
267 23550
301 23085
611 22794
620 22336
641 23086
650 22336
652 22336
659 22795
661 ..... 23087, 23443
672 ..... 22794, 22796, 22917, 22918
675 22919

Proposed Rules:
17 23109
20 23178
40 23522
264 23565
269 23565
674 23454

LIST OF PUBLIC LAWS

Last List June 4, 1990

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Service Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 644/Pub. L. 101-306

East Fork of the Jemez River and the Pecos River Wild and Scenic Rivers Addition Act of 1989. (June 6, 1990; 104 Stat. 260; 2 pages) Price: $1.00

S.J. Res. 231/Pub. L. 101-307

To designate the week of June 10, 1990 through June 16, 1990, as "State-Supported Homes for Veterans Week". (June 6, 1990; 104 Stat. 262; 1 page) Price: $1.00

S.J. Res. 267/Pub. L. 101-308

To authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month". (June 6, 1990; 104 Stat. 263; 1 page) Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	$11.00	Jan. 1, 1990
3 (1989 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1990
4	16.00	Jan. 1, 1990
5 Parts:		
1-699	15.00	Jan. 1, 1990
700-1199	13.00	Jan. 1, 1990
1200-End, 6 (6 Reserved)	17.00	Jan. 1, 1990
7 Parts:		
0-26	15.00	Jan. 1, 1990
27-45	12.00	Jan. 1, 1990
46-51	17.00	Jan. 1, 1990
52	24.00	Jan. 1, 1990
53-209	19.00	Jan. 1, 1990
210-299	25.00	Jan. 1, 1990
300-399	12.00	Jan. 1, 1990
400-699	20.00	Jan. 1, 1990
700-899	22.00	Jan. 1, 1990
900-999	29.00	Jan. 1, 1990
1000-1059	16.00	Jan. 1, 1990
1060-1119	13.00	Jan. 1, 1990
1120-1199	10.00	Jan. 1, 1990
1200-1499	18.00	Jan. 1, 1990
1500-1899	11.00	Jan. 1, 1990
1900-1939	11.00	Jan. 1, 1990
1940-1949	21.00	Jan. 1, 1990
1950-1999	24.00	Jan. 1, 1990
2000-End	9.50	Jan. 1, 1990
8	14.00	Jan. 1, 1990
9 Parts:		
1-199	20.00	Jan. 1, 1990
200-End	18.00	Jan. 1, 1990
10 Parts:		
0-50	21.00	Jan. 1, 1990
51-199	17.00	Jan. 1, 1990
200-399	13.00	[2] Jan. 1, 1987
400-499	21.00	Jan. 1, 1990
500-End	26.00	Jan. 1, 1990
11	11.00	Jan. 1, 1990
12 Parts:		
1-199	12.00	Jan. 1, 1990
200-219	12.00	Jan. 1, 1990
220-299	21.00	Jan. 1, 1990
300-499	19.00	Jan. 1, 1990
500-599	17.00	Jan. 1, 1990
600-End	14.00	Jan. 1, 1989
13	25.00	Jan. 1, 1990
14 Parts:		
1-59	25.00	Jan. 1, 1990
60-139	24.00	Jan. 1, 1990
140-199	10.00	Jan. 1, 1990
200-1199	21.00	Jan. 1, 1990
1200-End	13.00	Jan. 1, 1990
15 Parts:		
0-299	11.00	Jan. 1, 1990
300-799	22.00	Jan. 1, 1990
800-End	15.00	Jan. 1, 1990
16 Parts:		
0-149	6.00	Jan. 1, 1990
150-999	14.00	Jan. 1, 1990
1000-End	20.00	Jan. 1, 1990
17 Parts:		
1-199	15.00	Apr. 1, 1989
200-239	16.00	Apr. 1, 1990
*240-End	23.00	Apr. 1, 1990
18 Parts:		
1-149	16.00	Apr. 1, 1989
150-279	16.00	Apr. 1, 1989
*280-399	14.00	Apr. 1, 1990
*400-End	9.50	Apr. 1, 1990
19 Parts:		
1-199	28.00	Apr. 1, 1989
200-End	9.50	Apr. 1, 1989
20 Parts:		
1-399	13.00	Apr. 1, 1989
400-499	24.00	Apr. 1, 1989
500-End	28.00	Apr. 1, 1989
21 Parts:		
1-99	13.00	Apr. 1, 1989
100-169	15.00	Apr. 1, 1990
170-199	17.00	Apr. 1, 1989
200-299	6.00	Apr. 1, 1989
300-499	28.00	Apr. 1, 1989
500-599	21.00	Apr. 1, 1989
600-799	8.00	Apr. 1, 1989
800-1299	17.00	Apr. 1, 1989
1300-End	6.50	Apr. 1, 1989
22 Parts:		
1-299	22.00	Apr. 1, 1989
300-End	17.00	Apr. 1, 1989
23	17.00	Apr. 1, 1990
24 Parts:		
0-199	20.00	Apr. 1, 1990
200-499	28.00	Apr. 1, 1989
500-699	11.00	Apr. 1, 1989
700-1699	23.00	Apr. 1, 1989
1700-End	13.00	Apr. 1, 1990
25	25.00	Apr. 1, 1989
26 Parts:		
§§ 1.0-1-1.60	15.00	Apr. 1, 1989
§§ 1.61-1.169	25.00	Apr. 1, 1989
§§ 1.170-1.300	18.00	Apr. 1, 1989
*§§ 1.301-1.400	17.00	Apr. 1, 1990
§§ 1.401-1.500	28.00	Apr. 1, 1989
§§ 1.501-1.640	16.00	[3] Apr. 1, 1989
§§ 1.641-1.850	19.00	Apr. 1, 1989
§§ 1.851-1.1000	31.00	Apr. 1, 1989
§§ 1.1001-1.1400	18.00	Apr. 1, 1990
§§ 1.1401-End	23.00	Apr. 1, 1989
2-29	21.00	Apr. 1, 1990
30-39	14.00	Apr. 1, 1989
40-49	13.00	[3] Apr. 1, 1989
50-299	16.00	[3] Apr. 1, 1989
*300-499	17.00	Apr. 1, 1990
500-599	6.00	Apr. 1, 1990
600-End	6.50	Apr. 1, 1990
27 Parts:		
1-199	24.00	Apr. 1, 1989
200-End	14.00	Apr. 1, 1989
28	27.00	July 1, 1989
29 Parts:		
0-99	17.00	July 1, 1989

Title	Price	Revision Date
100–499	7.50	July 1, 1989
500–899	26.00	July 1, 1989
900–1899	12.00	July 1, 1989
1900–1910 (§§ 1901.1 to 1910.441)	24.00	July 1, 1989
1910 (§§ 1910.1000 to end)	13.00	July 1, 1989
1911–1925	9.00	July 1, 1989
1926	11.00	July 1, 1989
1927–End	25.00	July 1, 1989
30 Parts:		
0–199	21.00	July 1, 1989
200–699	14.00	July 1, 1989
700–End	20.00	July 1, 1989
31 Parts:		
0–199	14.00	July 1, 1989
200–End	18.00	July 1, 1989
32 Parts:		
1–39, Vol. I	15.00	[4] July 1, 1984
1–39, Vol. II	19.00	[4] July 1, 1984
1–39, Vol. III	18.00	[4] July 1, 1984
1–189	23.00	July 1, 1989
190–399	28.00	July 1, 1989
400–629	22.00	July 1, 1989
630–699	13.00	July 1, 1989
700–799	17.00	July 1, 1989
800–End	19.00	July 1, 1989
33 Parts:		
1–199	30.00	July 1, 1989
200–End	20.00	July 1, 1989
34 Parts:		
1–299	22.00	Nov. 1, 1989
300–399	14.00	Nov. 1, 1989
400–End	27.00	Nov. 1, 1989
35	10.00	July 1, 1989
36 Parts:		
1–199	12.00	July 1, 1989
200–End	21.00	July 1, 1989
37	14.00	July 1, 1989
38 Parts:		
0–17	24.00	Sept. 1, 1989
18–End	21.00	Sept. 1, 1989
39	14.00	July 1, 1989
40 Parts:		
1–51	25.00	July 1, 1989
52	25.00	July 1, 1989
53–60	29.00	July 1, 1989
61–80	11.00	July 1, 1989
81–85	11.00	July 1, 1989
86–99	25.00	July 1, 1989
100–149	27.00	July 1, 1989
150–189	21.00	July 1, 1989
190–299	29.00	July 1, 1989
300–399	10.00	July 1, 1989
400–424	23.00	July 1, 1989
425–699	23.00	July 1, 1989
700–789	15.00	July 1, 1989
790–End	21.00	July 1, 1989
41 Chapters:		
1, 1–1 to 1–10	13.00	[5] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[5] July 1, 1984
3–6	14.00	[5] July 1, 1984
7	6.00	[5] July 1, 1984
8	4.50	[5] July 1, 1984
9	13.00	[5] July 1, 1984
10–17	9.50	[5] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[5] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[5] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[5] July 1, 1984
19–100	13.00	[5] July 1, 1984
1–100	8.00	July 1, 1989
101	24.00	July 1, 1989
102–200	11.00	July 1, 1989
201–End	13.00	July 1, 1989

Title	Price	Revision Date
42 Parts:		
1–60	16.00	Oct. 1, 1989
61–399	6.50	Oct. 1, 1989
400–429	22.00	Oct. 1, 1989
430–End	24.00	Oct. 1, 1989
43 Parts:		
1–999	19.00	Oct. 1, 1989
1000–3999	26.00	Oct. 1, 1989
4000–End	12.00	Oct. 1, 1989
44	22.00	Oct. 1, 1989
45 Parts:		
1–199	16.00	Oct. 1, 1989
200–499	12.00	Oct. 1, 1989
500–1199	24.00	Oct. 1, 1989
1200–End	18.00	Oct. 1, 1989
46 Parts:		
1–40	14.00	Oct. 1, 1989
41–69	15.00	Oct. 1, 1989
70–89	7.50	Oct. 1, 1989
90–139	12.00	Oct. 1, 1989
140–155	13.00	Oct. 1, 1989
156–165	13.00	Oct. 1, 1989
166–199	14.00	Oct. 1, 1989
200–499	20.00	Oct. 1, 1989
500–End	11.00	Oct. 1, 1989
47 Parts:		
0–19	18.00	Oct. 1, 1989
20–39	18.00	Oct. 1, 1989
40–69	9.50	Oct. 1, 1989
70–79	18.00	Oct. 1, 1989
80–End	20.00	Oct. 1, 1989
48 Chapters:		
1 (Parts 1–51)	29.00	Oct. 1, 1989
1 (Parts 52–99)	18.00	Oct. 1, 1989
2 (Parts 201–251)	19.00	Oct. 1, 1989
2 (Parts 252–299)	17.00	Oct. 1, 1989
3–6	19.00	Oct. 1, 1989
7–14	25.00	Oct. 1, 1989
15–End	27.00	Oct. 1, 1989
49 Parts:		
1–99	14.00	Oct. 1, 1989
100–177	28.00	Oct. 1, 1989
178–199	22.00	Oct. 1, 1989
200–399	20.00	Oct. 1, 1989
400–999	25.00	Oct. 1, 1989
1000–1199	18.00	Oct. 1, 1989
1200–End	19.00	Oct. 1, 1989
50 Parts:		
1–199	18.00	Oct. 1, 1989
200–599	15.00	Oct. 1, 1989
600–End	14.00	Oct. 1, 1989
CFR Index and Findings Aids	29.00	Jan. 1, 1989
Complete 1990 CFR set	620.00	1990
Microfiche CFR Edition:		
Complete set (one-time mailing)	115.00	1985
Complete set (one-time mailing)	185.00	1986
Complete set (one-time mailing)	185.00	1987
Subscription (mailed as issued)	185.00	1988
Subscription (mailed as issued)	188.00	1989
Individual copies	2.00	1990

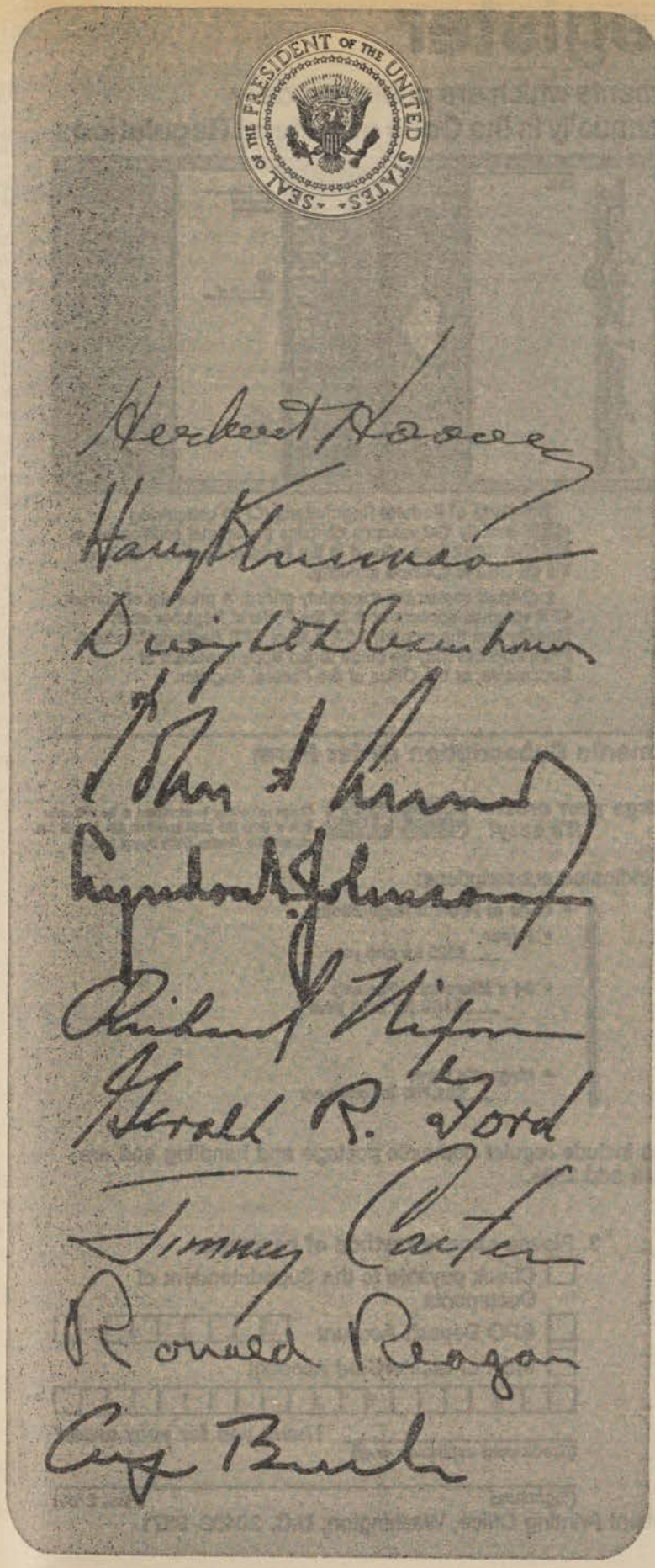
[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

[3] No amendments to this volume were promulgated during the period Apr. 1, 1989 to Mar. 30, 1990. The CFR volume issued April 1, 1989, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available; other volumes not listed are out of print.

Gerald R. Ford

1975 (Book I) $22.00

Jimmy Carter

1978 (Book I) $24.00

1979 (Book I) $24.00

1979 (Book II) $24.00

1980–81 (Book I) $21.00

1980–81 (Book II) $22.00

1980–81 (Book III) $24.00

Ronald Reagan

1981 ..... $25.00

1982 (Book II) $25.00

1983 (Book I) $31.00

1983 (Book II) $32.00

1984 (Book I) $36.00

1984 (Book II) $36.00

1985 (Book I) $34.00

1985 (Book II) $30.00

1986 (Book I) $37.00

1986 (Book II) $35.00

1987 (Book I) $33.00

1987 (Book II) $35.00

1988 (Book I) $39.00

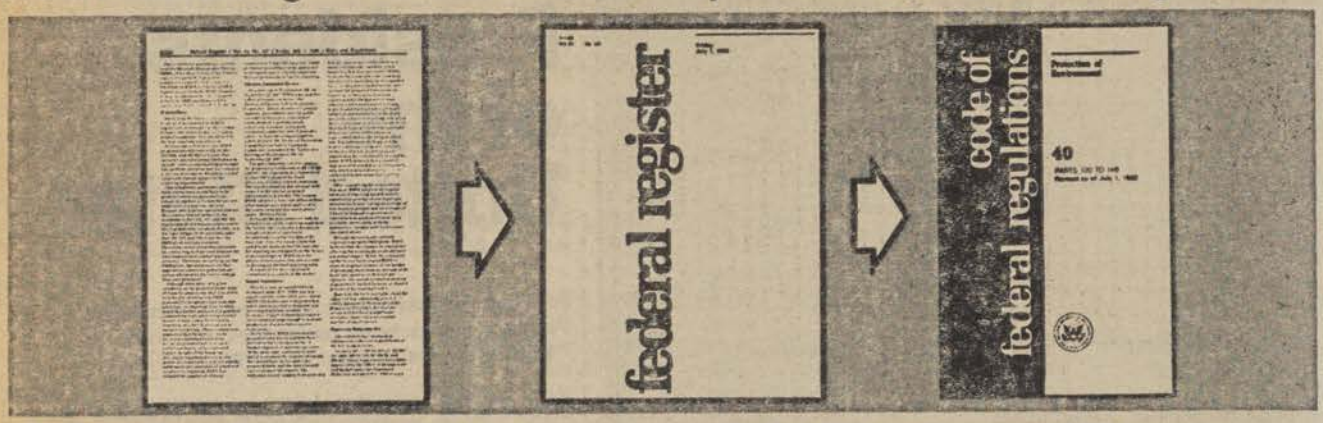
Published by the Office of the Federal Register, National Archives and Records Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402–9325.

(Rev. 5–16–90)

The Federal Register

Regulations appear as agency documents which are published daily in the **Federal Register** and codified annually in the **Code of Federal Regulations**



The **Federal Register**, published daily, is the official publication for notifying the public of proposed and final regulations. It is the tool for you to use to participate in the rulemaking process by commenting on the proposed regulations. And it keeps you up to date on the Federal regulations currently in effect.

Mailed monthly as part of a **Federal Register** subscription are: the LSA (List of CFR Sections Affected) which leads users of the **Code of Federal Regulations** to amendatory actions published in the daily **Federal Register**; and the cumulative **Federal Register Index.**

The **Code of Federal Regulations** (CFR) comprising approximately 196 volumes contains the annual codification of the final regulations printed in the **Federal Register**. Each of the 50 titles is updated annually.

Individual copies are separately priced. A price list of current CFR volumes appears both in the **Federal Register** each Monday and the monthly LSA (List of CFR Sections Affected). Price inquiries may be made to the Superintendent of Documents, or the Office of the Federal Register.

Superintendent of Documents Subscription Order Form

Order Processing Code:
***6463**

Charge your order. It's easy!

MasterCard VISA

Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays)

☐ **YES,** please send me the following indicated subscriptions:

- **Federal Register**
  - **Paper:**
    ___$340 for one year
    ___$170 for six-months
  - **24 x Microfiche Format:**
    ___$195 for one year
    ___$97.50 for six-months
  - **Magnetic tape:**
    ___$37,500 for one year
    ___$18,750 for six-months

- **Code of Federal Regulations**
  - **Paper**
    ___$620 for one year
  - **24 x Microfiche Format:**
    ___$188 for one year
  - **Magnetic tape:**
    ___$21,750 for one year

1. The total cost of my order is $_____. All prices include regular domestic postage and handling and are subject to change. International customers please add 25%.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____)_____
(Daytime phone including area code)

3. **Please choose method of payment:**
☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____ ***Thank you for your order!***
(Credit card expiration date)

_____
(Signature) (Rev. 2/90)

4. **Mail To:** Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9371